Chapter 205

1965 REPLACEMENT PART

County Clerks and Recorders of Conveyances

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GENERAL PROVISIONS

205.010 Definitions. (1) "Folio" means 100 words, counting two figures as one word. Any portion of a folio, when the whole paper contains less than a folio, or when such portion is an excess over the last folio, shall be deemed a folio.

(2) "Recorded," "recording" and "record" when used in reference to chattel mortgages in the statutes of this state mean "recorded or filed," "recording or filing" or "record or file," as the context may require.

205.020 to 205.100 [Reserved for expansion]

GENERAL POWERS AND DUTIES

205.110 General powers and duties of county clerk. (1) Each county clerk has power to take and certify the proof and acknowledgment of a conveyance of real property or any other written instrument, authorized or required to be proved or acknowledged.

(2) It is the duty of each county clerk for each of the courts for which he is clerk to:

(a) Keep the seal of the court, and affix it in all cases where he is required by law.

(b) Record the proceedings of the court.

(c) Keep the records, files and other books and papers appertaining to the court.

(d) File all papers delivered to him for that purpose in any action, suit or proceeding in the court.

(e) Attend the terms of the court of which he is a clerk, administer oaths and receive the verdict of a jury in any action, suit or proceeding therein, in the presence and under the direction of the court.

(f) Keep the journal of the proceedings of the court at its terms, and under the direction of the court enter its orders, judgments and decrees.

(g) Authenticate, by certificate or transcript, as may be required, the records, files or proceedings of the court, or any other paper appertaining thereto, and filed with him.

(h) Exercise the powers and perform the duties conferred upon him elsewhere by statute.

(i) In the performance of his duties, conform to the direction of the court.

205.120 [Repealed by 1959 c.552 §16]

205.130 Duties of recorder of conveyances. The recorder of conveyances shall:

(1) Have the custody of, and safely keep and preserve all files and records of deeds and mortgages of real property, and all maps, plats, contracts and powers of attorney affecting the title to real property.

(2) Record, or cause to be recorded, in a legible and permanent manner, in suitable books to be provided by the county and kept in his office, all:

(a) Deeds and mortgages of real property, powers of attorney and contracts affecting the title to real property, authorized by law to be recorded, assignments thereof and of any interest therein when properly acknowledged or proved;

(b) Certificates of sale of real property under execution or order of court, or assignments thereof or of any interest therein when properly acknowledged or proved;

(c) Original or certified copies of death certificates of any person appearing in the county records as owning or having a claim or interest in land in the county; and

(d) Affidavits concerning any person owning or appearing to have an interest in any land in the county, or concerning his interest therein.

(3) Perform all the duties in regard to the filing, recording and indexing of deeds and mortgages of real property, contracts and powers of attorney affecting the title of real property, and in regard to the entry of satisfaction and discharge of the same, together with other documents authorized by law to be recorded.

205.135 Preparation of true copy of document not sufficiently legible to reproduce readable photographic record. Whenever the text of a document presented for record may be made out but is not sufficiently legible to reproduce a readable photographic record, the county clerk or recorder may require the person presenting it for record to substitute a legible original document or direct the county clerk or recorder to prepare a true copy thereof by handwriting or typewriting and attach the same to the original as a part of the document for making the permanent photographic record. [1965 c.301 §1 (1)]

205.140 Copies of records certified by recorder as evidence. A transcript of the record of any instruments duly recorded by

the recorder of conveyances under the authority of ORS 205.130 and 205.160 to 205.190, or a photographic or photostatic copy thereof, duly certified by the recorder, under the seal of his office, may be read in evidence in any court with like force and effect as the original instrument.

205.150 Seal of recorder. The county court shall provide a suitable seal for the use of the recorder of conveyances.

205.160 Indexes kept by recorder of conveyances. (1) The recorder of conveyances shall keep a general index, direct and indirect, in his office.

(2) The general index direct shall be divided into seven columns, with heads to the respective columns as follows:

(a) Time of reception
(b) Names of grantor
(c) Names of grantee
(d) Nature of instrument
(e) Volume and page where recorded
(f) Remarks
(g) Brief description of tract

The recorder shall make correct entries in such general index of every instrument recorded under the appropriate heading, entering the names of the grantors in an alphabetical form.

(3) The general index indirect shall be divided into seven columns, with heads to the respective columns as follows:

(a) Time of reception
(b) Names of grantees
(c) Names of grantors
(d) Nature of instrument
(e) Volume and page where recorded
(f) Remarks
(g) Brief description of tract

The recorder shall make in such general index correct entries of every instrument required by law to be entered in the general index direct, entering the names of the grantors in alphabetical order.

(4) Whenever any mortgage, bond or other instrument has been released or discharged from record, or by recording a deed or lease, the recorder shall immediately note in both general indexes under the column headed "Remarks," and opposite the appropriate entry, that such instrument has been satisfied.

205.170 Index kept by recorder of Umatilla County. The recorder of conveyances of Umatilla County shall also keep an index of each volume of records kept in his office, showing on one page the names of the grantors, in alphabetical order, and on the other page the names of the grantees, in alphabetical order.

205.180 Receiving book kept by recorder of conveyances. (1) The recorder of conveyances shall keep a receiving book, each page of which shall be divided into five columns, with heads to the respective columns as follows:

(a) Time of reception
(b) Name of grantor
(c) Name of grantee
(d) To whom delivered
(e) Fees received

He shall make in such receiving book correct entries of every instrument required by law to be recorded.

(2) Whenever any instrument has been received by him for record, he shall immediately indorse upon such instrument his certificate, noting the day, hour and minute of its reception and fees received for recording and, when recorded, a reference to the book and page where it is recorded. The date of record of such instrument is the date of filing.

(3) Whenever any instrument has been filed, the recorder shall immediately make an entry of the same in his receiving book, under the appropriate heading, with the amount paid as fee for recording.

(4) After such instrument has been recorded the recorder shall deliver it to the person authorized to receive the same, writing the name of the person to whom it is delivered in the appropriate column.

205.190 Platting of maps of towns, villages, cemeteries. Each recorder and ex-officio recorder of conveyances shall keep a large, well-bound book, in which shall be platted all maps executed prior to May 22, 1909, of towns, villages, or additions to the same, or cemeteries, within his county, together with any description, acknowledgment or other writing therein. He shall keep an index to such books of plats, which index shall contain the name of the town, village, addition or cemetery plat. He shall not be bound to perform any duty required by ORS 205.130, 205.160, 205.180 and 205.190 for which a fee is allowed, unless such fee has been paid or tendered, but when any such map has, prior to May 29, 1919, been incorrectly recorded in the plat records or deed

records of his county, and such plat so incorrectly recorded is again presented by anyone to him for record, he shall correctly record such map in the book of plats without charge therefor, and shall make notation on the margin of the original record of the map in the book of plats, of the fact of such re-recording, giving the book and page where the re-recording appears. The original map so re-recorded, as well as all maps recorded under this section, as well as all original maps or plats recorded prior to May 29, 1919, in the book of plats or deed records, shall be safely kept by him in his office in a suitable receptacle (having due regard to the aged, frail or worn condition of such maps) to be provided by the county. He shall not refuse to comply with this section by reason of the fact that some portion of the lands so platted were brought under any statute of this state relating to the registration of land titles.

205.200 Certain county clerks to perform duties of recorder of conveyances. The duties incumbent upon the recorder of conveyances under ORS 205.130, 205.160, 205.180 and 205.190 shall be performed and executed by the county clerks of the counties of Baker, Benton, Clackamas, Clatsop, Jackson, Union, Washington and Yamhill.

205.210 Recording duties of county clerk of Multnomah County. (1) The county clerk of Multnomah County shall have the care, custody and control of the books, papers and files, and records of contracts, powers of attorney, deeds, mortgages of real and personal property, and of mechanics', laborers' and materialmen's and other liens in Multnomah County, and shall perform all the duties in regard to the filing, recording and indexing of deeds, mortgages, contracts, powers of attorney, and mechanics', laborers', materialmen's and other liens in Multnomah County, and in regard to the entry of satisfaction and discharge thereof.

(2) He shall keep a receiving book, each page of which shall be divided into several columns, with heads to the respective columns as follows:

(a) Number
(b) Nature of instrument
(c) Time of receipt
(d) Name of grantor
(e) Name of grantee
(f) To whom delivered
(g) Fee received

He shall make in such receiving book correct entries of every instrument required by law to be recorded. Such book shall be open to public inspection, and the instruments to be recorded shall be open to public inspection before being recorded to those whose business requires that they inspect the same.

(3) Whenever any instrument has been received by him for record, he shall immediately indorse upon such instrument his certificate, noting the day, hour and minute of its reception, and fees received for recording, and, when recorded, he shall further certify upon such instrument the book and page where recorded. The date of record of such instrument is the date of filing.

(4) Whenever any instrument has been filed, the county clerk shall immediately make an entry of the same in his receiving book, under the appropriate heading, with the amount paid as fee for recording the same.

(5) After such instrument has been recorded, the county clerk shall deliver it to the person authorized to receive the same, writing the name of the person to whom it is delivered in the appropriate column.

205.220 Recording copies of estate records; copy as evidence. Any copies of records of any estate administered in this state, certified to as true and correct by the clerk of the court in which the estate was or is being administered, shall be received and recorded by the officer having charge of the deed records of any county upon the payment of the fees required by law. A certified copy of such record shall be received as prima facie evidence of the original record in any court of this state.

205.230 Duty to search records and furnish certificates. Where applicable the recorder of conveyances in counties in which such office is or may be established by law, and in other counties, the county clerk, without liability upon the county, or upon such officer either personally or in his official capacity, must, upon the application of any person and upon the payment or tender of the fees to such recorder or clerk therefor, make searches and furnish a certificate in accordance with the provisions of ORS 79.4070 including provisions for fees, otherwise such county clerk or recorder of conveyances shall furnish a certificate showing all unreleased chattel mortgages, conditional sales contracts, bills of sale, affidavits of

renewal, and all other instruments and liens filed in his office affecting the personal property of a designated person, firm or corporation. Such certificate shall state the names of the parties to such instruments, the dates thereof, the dates of filing, the extent to which they purport to affect the property to which they relate, the nature of the lien and the character of the property affected, the document numbers under which they are filed, and in case of chattel mortgages, the maturity of the obligations thereby secured.
[Amended by 1961 c.726 §411; 1965 c.619 §37; part renumbered 205.335]

205.240 County clerk to make reports to State Treasurer concerning political subdivisions. (1) On or before April 1 of each year, and at such other times as the State Treasurer shall designate, the county clerk shall file with the State Treasurer a report embodying the name of every civil subdivision and municipal, quasi-municipal, or public corporation, hereinafter designated "subdivision," located or the greater part of which is located in the county, and the name and address of the secretary-treasurer or other person in like position who has custody of the financial records of the subdivision. This section shall not require reports of the name of, or the name and address of any officer of, a school district.

(2) The county clerk shall notify the State Treasurer of the organization, consolidation, merger or dissolution of any subdivision, other than a school district, located or the greater part of which is located in the county, when such event occurs, and the name and address of the secretary-treasurer or other person in like position who is charged with keeping the financial records of such subdivision.
[1957 c.669 §§1, 2]

205.250 to 205.300 [Reserved for expansion]

COLLECTION AND DISPOSITION OF FEES

205.310 [Repealed by 1957 c.359 §3]

205.320 Fees collected by recorder or county clerk. In every county there shall be charged and collected, in advance, by the recorder of conveyances or county clerk for the benefit of the county, the following fees, and no more, for the following purposes and services:

(1) For recording, otherwise than by means of photography, or similar method any instrument required or permitted by law to be recorded, for each folio, 20 cents. In any event, a minimum fee of $1.50 for five folios, or less, shall be collected for the recording of any instrument. For a chattel mortgage upon any migratory chattel required by law to be registered with the Department of Motor Vehicles and license issued by the department thereon there shall be charged and collected, in addition to the recording or filing fee, 50 cents, which sum forthwith shall be transmitted to the Department of Motor Vehicles.

(2) For filing and making entry when required by law of any instrument required or permitted by law to be filed, when it is not recorded, $1.

(3) For filing and making entry of the assignment or satisfaction of any filed, but not recorded, instrument, $1.

(4) For supplying to private parties copies of records or files, made otherwise than by means of photography or similar method as follows:

(a) For copies prepared and compared by the clerk or recorder, for each folio, 20 cents.

(b) For copies not prepared by the clerk or recorder, but by him compared, for each folio, 15 cents.

(5) For each official certificate, 50 cents.

(6) (a) This subsection applies only to the photographic or similar method of recording or copying. For purposes of this subsection, "page" means one side of a sheet 13½ inches, or less, long and 8½ inches, or less, wide.

(b) For recording any instrument required or permitted by law to be recorded, for the first page, $1.50, for each additional page, $1.50, and for each rider, 50 cents, but the minimum fee shall not be less than $1.50.

(c) For supplying to private parties copies of records or files, for each page, 50 cents.

(d) For each official certificate, 50 cents.

(7) For taking affidavit for and making and issuing marriage license and registering the return thereof, $3.

(8) For taking and certifying acknowledgment or proof of execution of any instrument, $1.

(9) For issuing and indexing execution based on a transcript of judgment, $1.

(10) For preparing clerk's certificate of satisfaction of judgment, 50 cents.

(11) For certifying to the official character of a notary public, 50 cents.

(12) For recording the commission of a notary public, $1.50.

(13) For issuing any license required by law, other than a marriage or liquor license, and for which no fee is otherwise provided by law, $1.

(14) For any service which the clerk or recorder may be required by law to perform and no fee is provided, such fees as may favorably compare with those established by this section for similar services and as may be established by order or rule of the county court or board of county commissioners.
[Amended by 1957 c.359 §1; 1965 c.619 §38]

205.325 Fee for preparing copy of document under ORS 205.135. The fee for preparing a true copy of a document not sufficiently legible to reproduce a readable photographic record shall be $1 per page.
[1965 c.301 §1 (2)]

205.330 [Repealed by 1957 c.359 §3]

205.335 Fee for search and certificate by recorder. The recorder shall collect a fee of $5 for making the search and certificate provided for in ORS 205.230.
[Formerly part of 205.230]

205.340 Indexing fees of recorder. The recorder of conveyances shall receive from the county for indexing records already made such compensation as the county judge and county commissioners may deem sufficient. For indexing every tract or lot of land thereafter in the direct or indirect indexes, 10 cents for each tract or lot of land, shall be paid the recorder by the person having the instrument recorded.

205.350 Fees for approving and recording plats. The fee for performing the services set forth in ORS 92.090, 92.100 and 271.230, shall be as follows:

(1) For approval by the county court, the county clerk shall collect $1.

(2) For recording and indexing any plat, the recorder or county clerk, in whose office the deed records of the county are kept, shall charge as follows:

(a) For plats containing 20 lots, or less, $6.

(b) For plats containing over 20 lots, and less than 30 lots, $7.

(c) For plats containing 30 lots, and less than 50 lots, $8.50.

(d) For plats containing 50 lots, and less than 75 lots, $10.

(e) For plats containing 75 lots, and less than 101 lots, $12.

(f) For plats containing over 100 lots, in addition to the charge of $12, he shall make a charge of three cents per lot for all lots over 100.

205.360 Clerk to receipt and account for certain probate fees collected. The clerk of the county or circuit courts shall receive and receipt for the sums set forth in ORS 21.310, stating in the receipt the amount so received, from whom received and on what account the sums were received, specifying the cause or proceeding. If it is ascertained at any time that such official has received any money for such fees not so accounted for, or done service without exacting fees therefor as above mentioned, or neglected his duty in any other respect, the payment of his salary shall be withheld until the matter is fully rectified.

205.370 Payment to and disposition of trial fees by court clerk. Trial fees in the circuit court and county court exercising judicial functions shall be paid to the clerk of the court, who shall keep a regular account of them, and by whom paid, in his fee book. He shall pay the amount of such fees received to the treasurer of the county, as often as once a month, taking his receipt therefor in duplicate, one of which the clerk shall file in his office and the other he may retain as his private property. At the annual accounting of the county officers with the county court, the clerk shall exhibit to such court a detailed statement of the trial fees received by him in the course of the year, verified by his own oath.

205.380 Duties of circuit court clerk pertaining to fees collected in Multnomah County. In counties having a population of more than 400,000, according to the latest federal decennial census, the clerk or ex officio clerk of the circuit court shall, by the fourth day of each month, compute from the register referred to in ORS 21.620 the amounts earned by the county during the preceding month and enter in the fee book required by law such amounts, under the title of the case. The clerk shall immediately pay from the amounts on deposit with him in such cases all such sums earned to the county treasurer and take the county treasurer's receipt in duplicate therefor, which receipt

shall specify the amount received from each person, the title of the case and the items of service rendered and performed. The clerk shall immediately file one of such duplicate receipts with the county auditor.
[Amended by 1963 c.519 §32]

205.390 Disposition of fees and other receipts of Multnomah County clerk. The county clerk of Multnomah County shall pay into the county treasury all interest received or collected by him on funds of any kind held by him in his official capacity and all compensation collected or received by him under or by virtue of any Act of Congress for any services rendered by him under or in connection with any Act of Congress on the subject of or relating to naturalization, and all fees or emoluments other than his salary collected or received by him from any source in or by reason of his official capacity.

205.400 Fees not charged state or agencies for recording deed or certifying copy. No fee shall be charged the State of Oregon, or any commission or board thereof, by any county clerk or recorder of conveyances, for filing or recording any deed conveying real estate to the State of Oregon or for preparing or certifying a copy thereof.

205.410 to 205.500 [Reserved for expansion]

MISCELLANEOUS PROVISIONS

205.510 County clerk not to act or have partner acting as attorney. (1) No county clerk shall during the term of his office institute or assist in instituting any suit, action or probate proceeding in any court of which he is an officer, act as an attorney or counselor with or without hire in any such suit, action or proceeding, or have a partner who shall act as an attorney in any of such proceedings.

(2) The county clerk of Multnomah County and his deputies are prohibited from practicing or having a partner practicing as an attorney-at-law, while in office.

205.520 Location of office of county clerk. The office of the county clerk is in such building or room at the place appointed by law for holding the courts therein as the county court may order, except that the office of the county clerk of Multnomah County is in such rooms in any building at the county seat which the board of county commissioners may order.

205.530 Location of office of recorder of conveyances. The office of the recorder of conveyances is in the county courthouse, in such rooms as the county court may designate.

205.540 to 205.980 [Reserved for expansion]

PENALTIES

205.990 Penalties. Any officer who violates subsection (1) of ORS 205.510 shall be deemed guilty of malfeasance in office and punished therefor as provided by ORS 162.510.
[Amended by 1959 c.552 §15]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 15, 1965.

Sam R. Haley
Legislative Counsel