Chapter 93

1977 REPLACEMENT PART

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GENERAL REQUIREMENTS FOR DISPOSITION OF REALTY

93.010 Conveyances, how made. Conveyances of lands, or of any estate or interest therein, may be made by deed, signed by the person of lawful age from whom the estate or interest is intended to pass, or by his lawful agent or attorney, and acknowledged or proved, and recorded without any other act or ceremony. No seal of the grantor, corporate or otherwise, shall be required on the deed.
[Amended by 1965 c.502 §4]

93.020 Creating, transferring or declaring estates or interests in realty. (1) No estate or interest in real property, other than a lease for term not exceeding one year, nor any trust or power concerning such property, can be created, transferred or declared otherwise than by operation of law or by a conveyance or other instrument in writing, subscribed by the party creating, transferring or declaring it, or by his lawful agent under written authority, and executed with such formalities as are required by law.

(2) This section does not affect the power of a testator in the disposition of his real property by a last will and testament, nor to prevent a trust from arising or being extinguished by implication or operation of law, nor to affect the power of a court to compel the specific performance of an agreement in relation to such property.

93.030 Contracts to convey, instruments of conveyance and related memoranda to state consideration. (1) All instruments conveying or contracting to convey fee title to any real estate, and all memoranda of such instruments, shall state on the face of such instruments the true and actual consideration paid for such transfer, stated in terms of dollars. As used in this section, "consideration" includes the amount of cash and the amount of any lien, mortgage, contract, indebtedness or other encumbrance existing against the property to which the property remains subject or which the purchaser agrees to pay or assume. However, if the actual consideration consists of or includes other property or other value given or promised, neither the monetary value nor a description of such other property or value need be stated so long as it is noted on the face of the instrument that other property or value was either part or the whole consideration.

(2) The statement of consideration as required by subsection (1) of this section shall be made by a grantor or a grantee. Failure to make such statement does not invalidate the conveyance.

(3) If the statement of consideration is in the body of the instrument preceding the signatures, execution of the instrument shall constitute a certification of the truth of the statement. If there is a separate statement of consideration on the face of the instrument, it shall be signed separately from the instrument, and such execution shall constitute a certification of the truth of the statement by the person signing. No particular form is required for the statement so long as the requirements of this section are reasonably met.

(4) No instrument conveying or contracting to convey fee title to any real estate nor any memorandum of such an instrument shall be accepted for recording by any county clerk or recording officer in this state unless the statement of consideration required by this section is included on the face of the instrument.

(5) This section applies to instruments executed on or after January 1, 1968.
[1967 c.462 §§1, 3; 1967 s.s. c.7 §1; 1977 c.605 §1]

SPECIAL MATTERS IN PARTICULAR CONVEYANCES

93.110 Quitclaim deed sufficient to pass estate. A deed of quitclaim and release, of the form in common use, is sufficient to pass all the estate which the grantor could lawfully convey by a deed of bargain and sale.

93.120 Words of inheritance unnecessary to convey fee; conveyances deemed to convey all grantor's estate. The term "heirs," or other words of inheritance, is not necessary to create or convey an estate in fee simple. Any conveyance of real estate passes all the estate of the grantor, unless the intent to pass a lesser estate appears by express terms, or is necessarily implied in the terms of the grant.

93.130 Conveyance of land in adverse possession of another. No grant or conveyance of lands or interest therein is void for the reason that at the time of its execution the lands were in the actual possession of another claiming adversely.

93.140 Implied covenants. No covenant shall be implied in any conveyance of real estate, whether it contains special covenants

or not, except as provided by ORS 93.850 to 93.870.
[Amended by 1973 c.194 §6]

93.150 Conveyance by tenant of greater estate than that possessed. A conveyance made by a tenant for life or years, purporting to grant a greater estate than he possesses or could lawfully convey, does not work a forfeiture of his estate, but passes to the grantee all the estate which the tenant could lawfully convey.

93.160 Conveyance by reversioners and remaindermen to life tenant vests fee. Where real property has been devised to a person for life, and in case of the death of the life tenant without leaving lawful issue born alive and living at the time of his death, then to other heirs of the testator, a conveyance to the life tenant from all reversioners or remaindermen and all issue of the life tenant as are in being, of all their interest in the real property, vests a fee simple estate in the life tenant.

93.170 [Repealed by 1969 c 591 §305]

93.180 Tenancy in common, when created; joint tenancy abolished. Every conveyance or devise of lands, or interest therein, made to two or more persons, other than to executors and trustees, as such, creates a tenancy in common unless it is expressly declared in the conveyance or devise that the grantees or devisees take the lands as joint tenants. Joint tenancy is abolished and all persons having an undivided interest in real property are to be deemed and considered tenants in common.

93.190 Trustees or personal representatives as joint tenants; filling vacancies in office. (1) Every conveyance, deed of trust, mortgage or devise of an interest in or lien upon real or personal property to two or more persons as trustees or personal representatives, creates a joint tenancy in such interest or lien in the trustees or personal representatives unless it is expressly declared in the conveyance, deed of trust, mortgage or devise that the trustees or personal representatives shall take or hold the property as tenants in common or otherwise.

(2) If the conveyance, deed of trust, mortgage or devise provides for filling any vacancy in the office of trustee or personal representative, it may be filled as therein provided, but a court of competent jurisdiction may fill a vacancy in the trusteeship according to the established rules and principles of equity. In whichever way the vacancy is filled, the new trustee shall hold the property with all powers, rights and duties of an original trustee unless otherwise directed by conveyance, deed of trust, mortgage or devise, or order or decree of the court.
[Amended by 1969 c.591 §275]

93.200 Trustees or executors now hold as joint tenants. All trustees or executors holding real or personal property in trust on May 19, 1905, hold as joint tenants and not as tenants in common unless the conveyance, deed of trust, mortgage or devise, or order or decree of court creating or appointing the trustees or executors has declared otherwise.

93.210 Presumption respecting deed from trustee of undisclosed beneficiary. If a deed to real estate has been made to a grantee in trust or designating the grantee as trustee, and no beneficiary is indicated or named in the deed, a deed thereafter executed by such grantee conveying the property is presumed to have been executed with full right and authority and conveys prima facie title to the property. The grantee in the last-mentioned deed is under no duty whatsoever to see to the application of the purchase price. If the last-mentioned deed is recorded after June 7, 1937, after five years from its recording or, if it was recorded prior to June 7, 1937, then after June 7, 1942, the presumption is conclusive as to any undisclosed beneficiary and the title to the real estate, based upon the last-mentioned deed, shall not be called in question by any one claiming as beneficiary under the first-mentioned deed.

93.220 Release, limitation or restriction of power of appointment. (1) Any person to whom there has been granted or reserved any power of appointment or other power by which he may elect to take any action affecting the disposition of property may at any time release, or, from time to time, limit or restrict such power in whole or in part by an instrument in writing evidencing that purpose and subscribed by him.

(2) If the power is one to affect title to real property, the instrument shall be executed, acknowledged, proved and recorded, or filed with the registrar of title in each county in which the land is situated in the same manner as a conveyance of real property.

(3) If the power is of such nature that its exercise may affect the duty of any trustee or other fiduciary, such trustee or other fiduciary is not bound to take notice thereof unless he has received the original or an executed

duplicate of the release or a copy thereof certified by the county clerk or county recorder of the county in which it has been recorded.

93.230 Copy of State Lands Division deed or patent given when original lost. (1) If parties to whom deeds have been issued by the Division of State Lands have lost such deeds before they were placed on record in the county wherein the land conveyed is located, the Director of the Division of State Lands, on application of the party entitled thereto, shall cause a certified copy of the record of the deed in the office of the division to be issued under its seal.

(2) If parties to whom patents for lands have been issued by the United States for lands in the State of Oregon have lost such patents before they were placed on record in the county wherein the land conveyed is located, such parties, or their successors in interest, may apply to and obtain from the Bureau of Land Management, or its successor agency, copies of the records of such patents, duly certified to be correct copies of the original patents, or of the record thereof, by the appropriate federal officer.

(3) Every certified copy issued in accordance with subsection (1) or (2) of this section is entitled to record in the proper county with like effect as the original deed or patent. Every such copy so certified may be read in evidence in any court in this state without further proof thereof. The record of any such certified copy, or a transcript thereof certified by the county clerk in whose office it may have been recorded, may be read in evidence in any court in this state with like effect as the original thereof or the original lost deed or patent.
[Amended by 1967 c.421 §197]

93.240 Rights to deferred instalments of purchase price where two or more persons join as sellers in contract of sale of real property. (1) Subject to the provisions contained in this section, whenever two or more persons join as sellers in the execution of a contract of sale of real property, unless a contrary purpose is expressed in the contract, the right to receive payment of deferred instalments of the purchase price shall be owned by them in the same proportions, and with the same incidents, as title to the real property was vested in them immediately preceding the execution of the contract of sale.

(2) If immediately prior to the execution of a contract of sale of real property title to any interest in the property therein described was vested in the sellers or some of the sellers as tenants by the entirety or was otherwise subject to any right of survivorship, then, unless a contrary purpose is expressed in the contract, the right to receive payment of deferred instalments of the purchase price of the property shall likewise be subject to like rights of survivorship.

(3) Nothing contained in this section shall be deemed to modify or amend the provisions of subsection (4) of ORS 118.010 relating to inheritance taxes payable by reason by succession by survivorship as provided by subsection (2) of this section.
[1957 c.402 §§1, 2, 1969 c.591 §276]

93.250 Effect of conveyance creating fee simple conditional or fee tail. Every conveyance or devise of lands, or interest therein, made subsequent to September 9, 1971, using language appropriate to create a fee simple conditional or fee tail estate shall create an estate in fee simple absolute in the grantees or devisees of such conveyances or devises. Any future interest limited upon such an interest is a limitation upon the fee simple absolute and its validity is determined accordingly.
[1971 c.382 §1]

93.260 Tax statement information required in conveyancing instrument. (1) All instruments prepared for the purpose of conveying or contracting to convey fee title to any real estate shall contain on the face of such instruments a statement in substantially the following form:

Until a change is requested, all tax statements shall be sent to the following address:

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(2) Failure to contain the statement required by this section does not invalidate the conveyance and if an instrument is recorded without the statement required by this section, the recording is valid.

(3) This section applies to all instruments executed after January 1, 1974.
[1973 c.422 §2]

93.270 Certain discriminatory restrictions in conveyancing instruments prohibited. (1) No person conveying or contracting to convey fee title to real property shall include in an instrument for such purpose a provision restricting the use of the real property by any person or group of persons by reason of color, race, religion or national origin.

(2) Any such provision in an instrument

executed in violation of subsection (1) of this section is void and unenforceable.
[1973 c.258 §1]

93.280 Manner of conveyance to create joint property rights. (1) Any person or persons owning real property which he or they have power to convey may convey such property by a conveyance naming himself or themselves and another person or persons, or one or more of themselves and another person or other persons, as grantees. The conveyance shall have the same effect as a conveyance from a stranger who owned the property to the persons named as grantees.

(2) Any two or more persons owning real property which they have power to convey may convey such property by a conveyance naming one, or more than one, of all such persons, as grantees. The conveyance shall have the same effect as a conveyance from a stranger who owned the property to the persons named as grantees.

(3) Any "person" mentioned in this section may be a married person, and any "persons" so mentioned may be married to each other.
[1973 c.209 §§1, 2, 3]

UNIFORM VENDOR AND PURCHASER RISK ACT

93.290 Risk of loss after contract to sell realty has been executed. Any contract made on or after August 3, 1955, in this state for the purchase and sale of realty shall be interpreted as including an agreement that the parties shall have the following rights and duties, unless the contract expressly provides otherwise:

(1) If, when neither the legal title nor the possession of the subject matter of the contract has been transferred, all or a material part thereof is destroyed without fault of the purchaser or is taken by eminent domain, the vendor cannot enforce the contract, and the purchaser is entitled to recover any portion of the price that he has paid;

(2) If, when either the legal title or the possession of the subject matter of the contract has been transferred, all or any part thereof is destroyed without fault of the vendor or is taken by eminent domain, the purchaser is not thereby relieved from a duty to pay the price, nor is he entitled to recover any portion thereof that he has paid.
[1955 c.144 §1]

93.295 Construction of ORS 93.290 to 93.300. ORS 93.290 to 93.300 shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact the Uniform Vendor and Purchaser Risk Act.
[1955 c 144 §2]

93.300 Short title. ORS 93.290 to 93.300 may be cited as the Uniform Vendor and Purchaser Risk Act.
[1955 c 144 §3]

DESCRIPTIONS, INCLUDING THE OREGON COORDINATE SYSTEM

93.310 Rules for construing description of real property. The following are the rules for construing the descriptive part of a conveyance of real property, when the construction is doubtful, and there are no other sufficient circumstances to determine it:

(1) Where there are certain definite and ascertained particulars in the description, the addition of others, which are indefinite, unknown or false, does not frustrate the conveyance, but it is to be construed by such particulars, if they constitute a sufficient description to ascertain its application.

(2) When permanent and visible or ascertained boundaries or monuments are inconsistent with the measurement, either of lines, angles or surfaces, the boundaries or monuments are paramount.

(3) Between different measurements which are inconsistent with each other, that of angles is paramount to that of surfaces, and that of lines paramount to both.

(4) When a road or stream of water not navigable is the boundary, the rights of the grantor to the middle of the road, or the thread of the stream, are included in the conveyance, except where the road or bed of the stream is held under another title.

(5) When tidewater is the boundary, the rights of the grantor to low watermark are included in the conveyance, and also the right of this state between high and low watermark.

(6) When the description refers to a map, and that reference is inconsistent with other particulars, it controls them, if it appears that the parties acted with reference to the map; otherwise the map is subordinate to other definite and ascertained particulars.

93.320 Oregon Coordinate System; zones. (1) The system of plane coordinates which has been established by the United

States Coast and Geodetic Survey for defining and stating the positions or locations of points on the surface of the earth within the State of Oregon is known and designated as the "Oregon Coordinate System."

(2) For the purpose of the use of this system the state is divided into a "north zone" and a "south zone."

(3) The area included in the following counties on June 16, 1945, constitutes the north zone: Baker, Benton, Clackamas, Clatsop, Columbia, Gilliam, Grant, Hood River, Jefferson, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, Wheeler and Yamhill.

(4) The area included in the following counties on June 16, 1945, constitutes the south zone: Coos, Crook, Curry, Deschutes, Douglas, Harney, Jackson, Josephine, Klamath, Lake, Lane and Malheur.

(5) The use of the term "Oregon Coordinate System" on any map, report of survey or other document, is limited to coordinates based on the Oregon Coordinate System as defined in ORS 93.330.

93.330 Definition. (1) For more precisely defining the Oregon Coordinate System, the following definition by the United States Coast and Geodetic Survey is adopted:

(a) The Oregon Coordinate System, north zone, is a Lambert conformal projection of the Clarke Spheroid of 1866, having standard parallels at north latitudes 44 degrees 20 minutes and 46 degrees 00 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 120 degrees 30 minutes west of Greenwich and the parallel 43 degrees 40 minutes north latitude. This origin is given the coordinates: x—2,000,000 feet and y—0 feet.

(b) The Oregon Coordinate System, south zone, is a Lambert conformal projection of the Clarke Spheroid of 1866, having standard parallels at north latitudes 42 degrees 20 minutes and 44 degrees 00 minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 120 degrees 30 minutes west of Greenwich and the parallel 41 degrees 40 minutes north latitude. This origin is given the coordinates: x—2,000,000 feet and y—0 feet.

(2) The position of the Oregon Coordinate System shall be as marked on the ground by triangulation or traverse stations established in conformity with the standards adopted by the United States Coast and Geodetic Survey for first-order and second-order work, whose geodetic positions have been rigidly adjusted on the North American datum of 1927, and whose coordinates have been computed on the system defined in this section. Any such station may be used for establishing a survey connection with the Oregon Coordinate System.

93.340 Use of terms in land description. (1) As established for use in the north zone, the Oregon Coordinate System shall be named, and in any land description in which it is used it shall be designated the "Oregon Coordinate System, north zone."

(2) As established for use in the south zone, the Oregon Coordinate System shall be named, and in any land description in which it is used it shall be designated the "Oregon Coordinate System, south zone."

(3) When any tract of land to be defined by a single description extends from one into the other of the coordinate zones mentioned in ORS 93.320, the positions of all points on its boundaries may be referred to either of those zones, the zone which is used being specifically named in the description.

93.350 Plane coordinates. The plane coordinates of a point on the earth's surface, used in expressing the position or location of such point in the appropriate zone of the Oregon Coordinate System, shall consist of two distances, expressed in feet and decimals of a foot. One of these distances, to be known as the "x-coordinate," shall give the position in an east and west direction; the other, to be known as the "y-coordinate," shall give the position in a north and south direction. These coordinates shall be made to depend upon and conform to the coordinates, on the Oregon Coordinate System, of the triangulation and traverse stations of the United States Coast and Geodetic Survey within the State of Oregon, as those coordinates have been determined by that survey.

93.360 Coordinates exempted from recordation. No coordinates based on the Oregon Coordinate System, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records unless that point is within one-half mile of a triangulation or traverse station established in conformity with the standards prescribed in ORS 93.330. However, the one-half mile limitation

may be modified by an authorized state agency to meet local conditions.

93.370 Description as supplemental; conflict in description. If coordinates based on the Oregon Coordinate System are used to describe any tract of land which in the same document is also described by reference to any subdivision, line or corner of the United States public land surveys, the description by coordinates is construed as supplemental to the basic description of that subdivision, line or corner contained in the official plats and field notes filed of record. In the event of any conflict the description by reference to the subdivision, line or corner of the United States public land surveys prevails over the description by coordinates.

93.380 Purchaser or mortgagee not required to rely on description. Nothing contained in ORS 93.320 to 93.370 requires any purchaser or mortgagee to rely on a description, any part of which depends exclusively upon the Oregon Coordinate System.

EXECUTION, ACKNOWLEDGMENT AND PROOF OF INSTRUMENTS

93.410 Execution and acknowledgment of deeds. Deeds executed within this state, of lands or any interest in lands therein, shall be signed by the grantors and may be acknowledged before any judge of the Supreme Court, circuit judge, county judge, justice of the peace or notary public within the state. No seal of the grantor, corporate or otherwise, shall be required on the deed.
[Amended by 1965 c.502 §5; 1977 c.404 §1]

93.415 [Repealed by 1977 c.404 §2 (194.500 to 194 580 enacted in lieu of 93.415)]

93.420 Execution of deed where personal representative, guardian or conservator is unable or refuses to act. If any person is entitled to a deed from a personal representative, guardian or conservator who has died or resigned, has been discharged, disqualified or removed or refuses to execute it, the deed may be executed by the judge before whom the proceeding is pending or by his successor.
[Amended by 1961 c 344 §104; 1969 c.591 §277]

93.430 [Repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 93.430)]

93.440 Proof of execution by subscribing witness. Proof of the execution of any conveyance may be made before any officer authorized to take acknowledgments of deeds, and shall be made by a subscribing witness thereto, who shall state his own place of residence, and that he knew the person described in and who executed the conveyance. Such proof shall not be taken unless the officer is personally acquainted with the subscribing witness, or has satisfactory evidence that he is the same person who was a subscribing witness to the instrument.

93.450 Proof where witnesses are dead or absent. When any grantor is dead, out of this state, or refuses to acknowledge his deed, and all the subscribing witnesses to the deed are also dead or reside out of this state, it may be proved before the circuit court, or any judge thereof, by proving the handwriting of the grantor and of any subscribing witness thereto.

93.460 Subpena to compel witness to testify to execution of deed. Upon the application of any grantee, or any person claiming under him, verified by the oath of the applicant setting forth that the grantor is dead, out of the state, or refuses to acknowledge his deed, and that any witness to the conveyance residing in the county where the application is made refuses to appear and testify touching its execution and that the conveyance cannot be proven without his evidence, any officer authorized to take the acknowledgment or proof of conveyances, except a commissioner of deeds, may issue a subpena requiring the witness to appear and testify before him touching the execution of the conveyance.

93.470 Indorsement of certificate of proof. Every officer who takes the proof of any conveyance shall indorse a certificate thereof, signed by himself, on the conveyance. In the certificate he shall set forth those matters required by ORS 93.440 to 93.460 to be done, known or proved, together with the names of the witnesses examined before the officer, and their places of residence, and the substance of the evidence given by them.

93.480 Deed acknowledged or proved as evidence; recordability. Every conveyance acknowledged, proved or certified in the manner prescribed by law by any of the authorized officers may be read in evidence without further proof thereof and is entitled to be recorded in the county where the land is situated.

93.490 [Repealed by 1977 c.404 §2 (194.500 to 194 580 enacted in lieu of 93.490)]

93.500 [Repealed by 1977 c.404 §2 (194 500 to 194 580 enacted in lieu of 93.500)]

93.510 [Repealed by 1977 c.404 §2 (194.500 to 194 580 enacted in lieu of 93.510)]

93.520 [Repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 93.520)]

93.530 Execution, acknowledgment and recordation of assignments of sheriffs' certificates of sale. All assignments of sheriffs' certificates of sale of real property on execution or mortgage foreclosure shall be executed and acknowledged and recorded in the same manner as deeds of real property.

RECORDATION AND ITS EFFECTS

93.610 Separate books for recording deeds and mortgages. Separate books shall be provided by the county clerk in each county for the recording of deeds and mortgages. In one book all deeds left with the clerk shall be recorded at full length, or as provided in ORS 93.780 to 93.800, with the certificates of acknowledgment or proof of their execution, and in the other all mortgages left with the county clerk shall in like manner be recorded.
[Amended by 1969 c.583 §1]

93.620 Time and place of receipt for record; certification. The county clerk shall certify upon every conveyance recorded by him the time when it was received and a reference to the book and page where it is recorded. Every conveyance is considered recorded at the time it was so received.

93.630 Index of records of deeds and mortgages. The county clerk shall also keep a proper index, direct and inverted, to the books for the recording of deeds, and also one to the books for the recording of mortgages, in which he shall enter, alphabetically, the name of every party to each instrument recorded by him, with a reference to the book and page where it is recorded.

93.635 Acknowledgment and recording of land sale contracts. (1) All instruments contracting to convey fee title to any real property, at a time more than 12 months from the date that the instrument is executed and the parties are bound, shall be acknowledged, in the manner provided for acknowledgment of deeds, by the conveyor of the title to be conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyor not later than 15 days after the instrument is executed and the parties are bound thereby.

(2) "Instruments contracting to convey fee title to any real property" as used in subsection (1) of this section, shall not include:

(a) Earnest money or preliminary sales agreements;

(b) Options; or

(c) Rights of first refusal.
[1975 c.618 §4; 1977 c.724 §1]

93.640 Unrecorded instrument affecting title or unrecorded assignment of sheriff's certificate of sale void as to subsequent purchaser. (1) Every conveyance, deed, land sale contract or other agreement or memorandum thereof affecting the title of real property within this state which is not recorded as provided by law is void as against any subsequent purchaser in good faith and for a valuable consideration of the same real property, or any portion thereof, whose conveyance, deed, land sale contract or other agreement or memorandum thereof is first filed for record, and as against the heirs and assigns of such subsequent purchaser. As used in this section, "memorandum" means an instrument that contains the date of the instrument being memorialized, the names of the parties, a legal description of the real property involved, and the nature of the interest created, which is signed by the person from whom the interest is intended to pass, and acknowledged or proved in the manner provided for the acknowledgment or proof of deeds. A memorandum of an instrument conveying or contracting to convey fee title to any real estate shall state on its face the true and actual consideration paid for such transfer as provided in ORS 93.030.

(2) Every assignment of sheriffs' certificates of sale of real property on execution or mortgage foreclosure which is not recorded in the records of deeds in the county where the land is situated within five days after its execution is void as against any subsequent purchaser in good faith and for a valuable consideration of such certificate of sale, or the real property covered thereby, or any portion thereof, whose assignment is first recorded.
[Amended by 1973 c.696 §19; 1977 c.605 §2]

93.645 Priority of purchaser; extinguishing judgment lien; right of judgment creditor; "judgment" defined. (1) The interest of the purchaser, his heirs and assigns, under a contract for the purchase and sale of realty, if such contract or memorandum thereof has been recorded in deed records, shall have priority over the lien of any subsequent judgment against the seller of the property, his heirs and assigns, and con-

veyance in fulfillment of said contract shall extinguish the lien of any such judgment.

(2) Subsection (1) of this section shall not be construed to limit the right of a judgment creditor to execute upon a vendor's interest in a land sales contract.

(3) For the purposes of subsection (1) of this section, "judgment" includes any lien which by law becomes a lien upon real property in the same manner as a judgment, and includes a judgment or any such lien in favor of the State of Oregon and its agencies.
[1975 c.270 §§1, 2, 3]

93.650 Effect of record or certified transcript in evidence. The record of a conveyance duly recorded, or a transcript thereof certified by the county clerk in whose office it is recorded may be read in evidence in any court in the state, with the like effect as the original conveyance. However, the effect of such evidence may be rebutted by other competent testimony.

93.660 Effect of abstract of title as evidence. Any abstract of title to real property in this state certified by any person regularly engaged in this state in the business of preparing and certifying such abstracts shall be received in all courts as prima facie evidence of the existence, condition and nature of the record of all deeds, mortgages and other instruments, conveyances or liens shown or mentioned in the abstract as affecting the property, and that the record is as described in such abstract.

93.670 Power of attorney and executory contract for sale or purchase of lands; recordability; effect as evidence; revocation. (1) Every letter of attorney, or other instrument containing a power to convey lands, as agent or attorney for the owner of such lands, and every executory contract for the sale or purchase of lands, when acknowledged or proved in the manner prescribed for the acknowledgment or proof of conveyances, may be recorded in the county clerk's office of any county in which the lands to which such power or contract relates is situated. When so acknowledged or proved, such letter, instrument or contract, and the record thereof when recorded, or the certified transcript of such record, may be read in evidence in any court in this state without further proof of the same.

(2) No letter of attorney, or other instrument so recorded, is deemed to be revoked by any act of the party by whom it was executed unless the instrument containing such revocation is also recorded in the same office in which the instrument containing the power was recorded.

93.680 Patents, decrees in equity and official grants, recordability; evidence. (1) The following are entitled to be recorded in the record of deeds of the county in which the lands lie, in like manner and with like effect as conveyances of land duly acknowledged, proved or certified:

(a) The patents from the United States or of this state for lands within this state.

(b) Decrees of courts of equity in this state requiring the execution of a conveyance of real estate within this state.

(c) Approved lists of lands granted to this state, or to corporations in this state.

(d) Conveyances executed by any officer of this state by authority of law, of lands within this state.

(2) The record of any such patent, decree, approved lists or deeds recorded, or a transcript thereof certified by the county clerk in whose office it is recorded, may be read in evidence in any court in this state, with like effect as the original.

93.690 Recording of instruments evidencing passage of title to land from United States to State of Oregon. (1) The Director of the Division of State Lands shall forward all patents and clear lists of land and other documents evidencing that title to land has passed from the United States to the State of Oregon, which have been or shall be received by the State of Oregon, to the officer in each county of the state in which any of such land is situated whose duty it is to record conveyances of real estate. Upon the receipt of such patents, clear lists or other documents, the recording officer of the county shall, without charging or collecting any fee therefor, forthwith record the instruments in the records of deeds of the county and index them in the manner provided for indexing deeds. When the recording officer has properly recorded such instruments he shall return them to the Director of the Division of State Lands.

(2) When any such instrument includes land in more than one county, the record of the instrument in each county need include only the description of the land lying wholly or partly in that county and all other land may be indicated as omitted.

93.710 Instruments or memoranda creating certain interests in realty; effect of recording. (1) Any instrument creating a license, easement, profit a prendre, or a leasehold interest or oil, gas or other mineral interest or estate in real property or an interest in real property created by a land sale contract, or memorandum of such instrument or contract, which is executed by the person from whom the interest is intended to pass, and acknowledged or proved in the manner provided for the acknowledgment or proof of other conveyances, may be indexed and recorded in the records of deeds of real property in the county where such real property is located. Such recordation, whether the instrument be recorded prior to or subsequent to May 29, 1963, constitutes notice to third persons of the rights of the parties under the instrument irrespective of whether the party granted such interest or estate is in possession of the real property. Any such instrument when so acknowledged or proved, or certified in the manner prescribed by law by any of the authorized officers, may be read in evidence without further proof thereof.

(2) As used in this section, "memorandum" means an instrument that contains the date of the instrument being memorialized, the names of the parties, a legal description of the real property involved and the nature of the interest created which is signed by the person from whom the interest is intended to pass, and acknowledged or proved in the manner provided for the acknowledgment or proof of deeds. A memorandum of an instrument conveying or contracting to convey fee title to any real estate shall state on its face the true and actual consideration paid for such transfer as provided in ORS 93.030.

[Amended by 1963 c.416 §1; 1973 c.696 §20; 1977 c.605 §3]

93.720 Certificates of foreclosure; entry of record. (1) Whenever a decree foreclosing a mortgage on real estate is returned in the circuit court of any county, the clerk of the court, in counties where there is a recorder, shall make out a certificate stating that such mortgage has been foreclosed, the date of foreclosure and the number of the journal and page thereof in which such decree is entered. The clerk shall deliver the certificate to the recorder, who shall enter upon the margin of the record of such mortgage the word "foreclosed" and the date of foreclosure, with the number and page of the journal of the decree.

(2) In counties where the county clerk acts as recorder of conveyances, he shall, upon the entry of any decree foreclosing a mortgage on real estate, make on the margin of the record of such mortgage the record provided for in subsection (1) of this section.

93.730 Recordation of decrees in other counties. A certified copy of any judgment, decree or order of confirmation affecting lands in this state made in any suit may be recorded in the records of deeds in any county in which the land affected is wholly or partly situated by any party interested in the land or suit. After the transcript is so recorded, the decree is notice to all persons of such suit and the judgment, order or decree, as completely as if the entire proceedings were had originally in the county in which the transcript is recorded. The record of the transcript is prima facie evidence of title as therein determined.

93.740 Notice of lis pendens; contents; recordation; effect; discharge. In all suits in which the title to or any interest in or lien upon real property is involved, affected or brought in question, any party thereto at the commencement of the suit, or at any time during the pendency thereof, may file of record with the county clerk or other recorder of deeds of every county in which any part of the premises lies, except in the county in which the suit is brought, a notice of the pendency of the action containing the names of the parties, the object of the suit, and the description of the real property in the county involved, affected, or brought in question, signed by the party or his attorney. From the time of filing the notice, and from that time only, the pendency of the suit is notice, to purchasers and incumbrancers, of the rights and equities in the premises of the party filing the notice. The notice shall be recorded in the same book and in the same manner in which mortgages are recorded, and may be discharged in like manner as mortgages are discharged, either by such party or the attorney signing the notice.

93.750 Recordability of telegraphic copies of powers of attorney and other acknowledged instruments. Any power of attorney, or other instrument in writing, proved or acknowledged, and certified, so as to be entitled to record, may, together with the certificate or proof or acknowledgment, be sent by telegraph. The telegraphic copy, as defined in ORS 757.631, shall prima facie have the same effect in all respects and may be admitted to record and be recorded in the same manner and with like effect as the original.

93.760 Recordability of documents, orders and decrees of the United States District Court. (1) Copies of documents, orders and decrees in proceedings in the District Court of the United States for the District of Oregon, which have been certified by the clerk of such court, and which affect title to real property in this state, shall be entitled to be recorded in the deed records of any county in which such real property is located.

(2) Whenever any person presents to the recorder of conveyances, or county clerk acting as such, a certificate from the clerk of the United States District Court of the foreclosure of any mortgage on real estate the recorder shall make the record required by subsection (1) of ORS 93.720, provided in such section.

93.770 Recordability of petitions, orders and decrees under National Bankruptcy Act. Copies of any petition, with the schedules omitted, and copies of orders and decrees filed or made and entered in any proceeding under the National Bankruptcy Act which have been certified by the clerk of the United States District Court for the District of Oregon, shall be entitled to be recorded in the deed records of any county where the bankrupt owns or has an interest in real property.

93.780 Place of recording of instrument containing clauses of a mortgage or trust deed; county clerk to do recording; "Master Form." An instrument containing a form or forms of covenants, conditions, obligations, powers and other clauses of a mortgage or a trust deed may be recorded in any county. The county clerk, upon request of any person and on tender of the required fee, shall record the instrument. The instrument shall be entitled "Master Form" and recorded in the name of the entity or person causing it to be recorded.
[1969 c 583 §2]

93.790 Effect of recording master form instrument; effect of incorporation by reference in mortgage or trust deed; effect of deviation. (1) After the master form instrument is recorded pursuant to ORS 93.780, any provisions of such instrument may be incorporated by reference in any mortgage or trust deed of real estate situated within this state, if the reference in the mortgage or trust deed states that:

(a) The master form instrument was recorded in the county in which the mortgage or trust deed is offered for record;

(b) The date when and the book and page or pages where the master form instrument was recorded; and

(c) A copy of the master form instrument was furnished to the party executing the mortgage or trust deed at or before the time of its execution.

(2) The recording of any mortgage or trust deed which has incorporated by reference any provision of a master form instrument recorded as provided in ORS 93.780 has like effect as if the incorporated provisions were set forth fully in the mortgage or trust deed.

(3) In the event any instrument recorded as provided in subsections (1) and (2) of this section should deviate in any respect from a recorded master form, that portion that deviates from the master form shall not be deemed notice to third parties.
[1969 c.583 §§3, 5]

93.800 Matter not to be recorded when accompanying mortgage or trust deed; liability for nonrecording. (1) No county clerk shall record matter accompanying a mortgage or trust deed presented for recording if such matter:

(a) Purports to be copied or reproduced from a master form instrument recorded and identified as required by ORS 93.780;

(b) Is preceded by the words "do not record" or "not to be recorded"; and

(c) Is separated from the mortgage or trust deed so that it will not appear on a photographic reproduction of any page containing a part of the mortgage or trust deed.

(2) Notwithstanding any law to the contrary, no recorder is liable for failing to record matter he is prohibited from recording by subsection (1) of this section.
[1969 c 583 §4]

VALIDATING AND CURATIVE ACTS

93.810 Validating and curative Acts. The following are subjects of validating or curative Acts applicable to this chapter:

(1) Evidentiary effect and recordation of conveyances before 1854.

(2) Evidentiary effect and recordation of certified copies of deeds issued by State Land Board prior to 1885 where original deed was lost.

(3) Defective acknowledgments of married women to conveyances prior to 1891.

(4) Foreign instruments executed prior to 1903.

(5) Deeds of married women before 1907, validity; executed under power of attorney and record as evidence.

(6) Conveyances by reversioners and remaindermen to life tenant.

(7) Decrees affecting lands in more than one county.

(8) Irregular deeds and conveyances; defective acknowledgments; irregularities in judicial sales; sales and deeds of executors, administrators, conservators and guardians; vested rights arising by adverse title; recordation,

(9) Defective acknowledgments.

(10) Title to lands from or through aliens.

[Subsection (1) enacted as 1854, D p. 653 §36; subsection (2) enacted as 1885 p. 78 §3; subsection (3) enacted as 1891 p. 152 §2; subsection (4) enacted as 1903 p.17 §2; subsection (5) enacted as 1907 c.170 §5; subsection (6) enacted as 1915 c.247 §1; subsection (7) enacted as 1917 c.329; subsection (8) enacted as 1943 c.26; subsection (9) enacted as 1945 c.380 §5; amended by 1947 c.579 §1; subsection (10) enacted as 1949 c.350 §2; 1973 c.823 §96]

DEED FORMS

93.850 Warranty deed form; effect. (1) Warranty deeds may be in the following form:

———, Grantor, conveys and warrants to ———, Grantee, the following described real property free of encumbrances except as specifically set forth herein: (Describe the property conveyed.)

(If there are to be exceptions to the covenants described in paragraph (c) of subsection (2) of this section, here insert such exceptions.) The true consideration for this conveyance is $——. (Here comply with the requirements of ORS 93.030.)

Dated this ——— day of ———, 19—

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(2) A deed in the form of subsection (1) of this section shall have the following effect:

(a) It shall convey the entire interest in the described property at the date of the deed which the deed purports to convey.

(b) The grantor, his heirs, successors and assigns, shall be forever estopped from asserting that the grantor had, at the date of the deed, an estate or interest in the land less than that estate or interest which the deed purported to convey and the deed shall pass any and all after acquired title.

(c) It shall include the following covenants, each of which shall run in favor of the grantee and his successors in title as if written in the deed:

(A) That at the time of the delivery of the deed the grantor is seized of the estate in the property which the grantor purports to convey and that he has good right to convey the same.

(B) That at the time of the delivery of the deed the property is free from encumbrances except as specifically set forth on the deed.

(C) That the grantor warrants and will defend the title to the property against all persons who may lawfully claim the same.

(3) If the grantor desires to exclude any encumbrances or other interests from the scope of his covenants, such exclusions must be expressly set forth on the deed.

[1973 c.194 §1]

93.855 Special warranty deed form; effect. (1) Special warranty deeds may be in the following form:

———, Grantor, conveys and specially warrants to ———, Grantee, the following described real property free of encumbrances created or suffered by the grantor except as specifically set forth herein: (Describe the property conveyed.)

(If there are to be exceptions to the covenants described in this section, here insert such exceptions.

The true consideration for this conveyance is $——. (Here comply with the requirements of ORS 93.030.)

Dated this ——— day of ———, 19—.

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(2) A deed in the form of subsection (1) of this section shall have the same effect as a warranty deed as described in ORS 93.850, except that the covenant of freedom from encumbrances shall be limited to those encumbrances created or suffered by the grantor and the covenant of warranty shall be limited to read: That the grantor warrants and will defend the title to the property against all persons who may lawfully claim the same by, through or under the grantor.

(3) If the grantor desires to exclude any encumbrances or other interests from the scope of his covenants, such exclusions must be expressly set forth on the deed.

[1973 c.194 §2]

93.860 Bargain and sale deed form; effect. (1) Bargain and sale deeds may be in the following form:

———, Grantor, conveys to ———, Grantee, the following described real property: (Describe the property conveyed.)

The true consideration for this conveyance is $——. (Here comply with the requirements of ORS 93.030.)

Dated this ——— day of ———, 19—.

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(2) A deed in the form of subsection (1) of this section shall have the following effect:

(a) It shall convey the entire interest in the described property at the date of the deed which the deed purports to convey.

(b) The grantor, his heirs, successors and assigns, shall be forever estopped from asserting that the grantor had, at the date of the deed, an estate or interest in the land less than that estate or interest which the deed purported to convey and the deed shall pass any and all after acquired title.

(3) A bargain and sale deed shall not operate to provide any covenants of title in the grantee and his successors.
[1973 c.194 §3]

93.865 Quitclaim deed form; effect. (1) Quitclaim deeds may be in the following form:

———, Grantor, releases and quitclaims to ———, Grantee, all right, title and interest in and to the following described real property: (Describe the property conveyed.)

The true consideration for this conveyance is $——. (Here comply with the requirements of ORS 93.030.)

Dated this ——— day of ———, 19—

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(2) A deed in the form of subsection (1) of this section shall have the effect of conveying whatever title or interest, legal or equitable, the grantor may have in the described property at the date of the deed but shall not transfer any title or interest which the grantor may thereafter obtain nor shall it operate as an estoppel.

(3) A grantee taking title by way of a quitclaim deed shall not, merely because of his receipt of title by or through such a deed, be denied the status of a good faith purchaser for value.
[1973 c.194 §4]

93.870 Statutory deed forms optional. The form of deeds set forth in ORS 93.850 to 93.865 are permissive and not mandatory. Other forms of deeds may be used for the conveyance of real property.
[1973 c.194 §5]

PENALTIES

93.990 Penalties. (1) The giving of a false statement of the true and actual consideration as required by ORS 93.030 is punishable, upon conviction, by a fine of not more than $500.

(2) Any person served with the subpena mentioned in ORS 93.460 who, without reasonable cause, refuses or neglects to appear, or appearing refuses to answer upon oath touching the matter mentioned in ORS 93.460 shall forfeit to the injured party $100. He may also be committed to prison as for a contempt by the officer who issued the subpena until he submits to answer on oath as aforesaid.

(3) Violation of ORS 93.635 is punishable, upon conviction, by a fine of not more than $100.
[Subsection (1) enacted as 1967 c.462 §2; subsection (3) enacted as 1975 c.618 §4; 1977 c.724 §2]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Thomas G. Clifford, 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,
October 1, 1977.

Thomas G Clifford
Legislative Counsel