Chapter 205

1985 REPLACEMENT PART

County Clerks

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DEFINITIONS

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.

GENERAL POWERS AND DUTIES

205.110 General powers and duties of county clerk. (1) The county clerk of any county in which the county court has judicial functions shall, for the county court:

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

(b) Record the proceedings of the court.

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

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

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

(f) Under the direction of the court enter its orders and judgments.

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

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

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

(2) The county clerk may 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. [1977 c.594 §2; 1981 s.s. c.3 §39; 1983 c 327 §5; 1985 c.540 §40]

205.120 [Repealed by 1959 c.552 §16]

205.125 County Clerk Lien Record; contents; effect. (1) The County Clerk Lien Record maintained under ORS 205.130 shall contain the following information:

(a) The name of the person incurring a civil penalty under an order or against whom the warrant was issued.

(b) The name of the officer or agency that issued the warrant or order.

(c) The amount of the civil penalty or the amount, including penalties, interest and other charges, for which the warrant was issued.

(d) The date on which the order or warrant was received and recorded.

(e) Full or partial satisfaction, if any, of the lien claim created by the order or warrant.

(f) Such other information as may be considered necessary by the county clerk.

(2) Upon recording in the County Clerk Lien Record, an order or warrant shall have the attributes and effect of an order or judgment entered in the judgment docket of the circuit court, including but not limited to the creation of a lien in favor of the officer or agency issuing the order or warrant, renewal and enforcement by supplementary proceedings, writs of execution, notices of garnishment and writs of garnishment. [1983 c.696 §1; 1985 c.343 §10]

205.130 Recording duties of county clerk. The county clerk 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 the office of the county clerk, 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; and

(c) 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.

(3) Maintain a record called the County Clerk Lien Record in which the warrants and orders of officers and agencies are recorded as provided in ORS 59.995, 92.490, 94.470, 179.655, 260.232, 311.610, 311.625, 314.430, 320.080, 321.346, 321.570, 323.390, 324.190, 416.170, 442.445,

654.086, 656.735, 656.750, 657.642, 673.735, 696.585, 701.992, 722.466 and 767.865.

(4) 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. [Amended by 1983 c.696 §8a, 1983 c.709 §43, 1983 c 763 §63; 1985 c.471 §16]

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 may require the person presenting it for record to substitute a legible original document or direct the county clerk 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 clerk as evidence. A transcript of the record of any instruments duly recorded by the county clerk under the authority of ORS 205.130 and 205.160 to 205.190, or a photographic or photostatic copy thereof, duly certified by the county clerk, under the seal of office, may be read in evidence in any court with like force and effect as the original instrument.

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

205.160 Indexes kept by county clerk; use of alternative recording method allowed. (1) The county clerk shall keep a general index, direct and indirect, in the office of the clerk.

(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 clerk 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 clerk 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 clerk shall immediately note in both general indexes under the column headed "Remarks," and opposite the appropriate entry, that such instrument has been satisfied.

(5) In lieu of a general index, a county clerk may use a data processing device or computer to provide an index in machine language for indexing entries. There may be added to said index the tax account number for each piece of property affected by the entry. From said data processing device or computer, print-outs shall be made on January 1 of each year. One such print-out shall be alphabetical by grantor and grantee and shall constitute the general index herein required. In case of satisfied mortgages, bonds or other instruments released or discharged during the year, the annual print-outs shall be considered compliance with subsection (4) of this section. A master tape or record for security purposes must be maintained for any index so created as well as a record of the data processing or computer programs in accordance with which the index in machine language is created and used, along with a record of any revisions. [Amended by 1969 c.702 §1]

205.170 [Repealed by 1979 c.492 §1]

205.180 Receiving book kept by county clerk. (1) The county clerk 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

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

(2) Whenever any instrument has been received for record, the county clerk shall immediately indorse upon such instrument a 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 county clerk shall immediately make an entry of the same in the receiving book of the clerk, under the appropriate heading, with the amount paid as fee for recording.

(4) 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.

205.190 Platting of maps of towns, villages, cemeteries. Each county clerk 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 the county, together with any description, acknowledgment or other writing therein. The clerk shall keep an index to such books of plats, which index shall contain the name of the town, village, addition or cemetery plat. The clerk 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 the county, and such plat so incorrectly recorded is again presented by anyone to the clerk for record, the clerk 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 in the office of the clerk in a suitable receptacle (having due regard to the aged, frail or worn condition of such maps) to be provided by the county. The clerk 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 [Amended by 1969 c.532 §1; repealed by 1971 c.88 §8]

205.210 [Repealed by 1981 c.48 §8]

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 county clerk, without liability upon the county, or upon such officer either personally or in an official capacity, must, upon the application of any person and upon the payment or tender of the fees to such 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 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 the office of the clerk 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 [1957 c.669 §§1, 2; repealed by 1971 c.267 §16]

205.245 Instruments to be recorded; fees. (1) The county clerk shall record the following instruments required or permitted to be filed and entered in the office of the county clerk:

(a) Financing statements filed in the office of the county clerk under ORS 79.4010;

(b) Hospital liens filed under ORS 87.565;

(c) Federal tax liens and certificates and notices affecting federal tax liens filed under ORS 87.806;

(d) Cooperative contracts filed under ORS 62.360;

(e) Special district assessments attaching to real property; and

(f) Lien foreclosure statements filed under ORS 87.202.

(2) The county clerk shall charge and collect fees specified in subsection (1) of ORS 205.320 for recording any instrument required to be recorded under subsection (1) of this section.

(3) Separate indexes may be maintained for instruments recorded under subsection (1) of this section in order to provide for quick location. [Formerly 21.520]

205.250 [1969 c.518 §2; repealed by 1971 c 121 §3]

205.255 Filing requirement as recording requirement. Any requirement by the laws of this state that an instrument described in ORS 205.245 be filed in the office of the county clerk shall be considered to be a requirement that such instruments be recorded instead of being filed. [Formerly 21.530]

205.260 County clerk to provide copies of recorded documents to assessor. On and after January 1, 1986, at least once each week, the county clerk shall provide the county assessor with copies of all documents recorded in the county deed and mortgage records during the preceding week. [1985 c.613 §30]

COLLECTION AND DISPOSITION OF FEES

205.310 [Repealed by 1957 c.359 §3]

205.320 Fees collected by county clerk. In every county there shall be charged and collected in advance by the 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, 75 cents. In any event, a minimum fee of $5.50 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 Motor Vehicles Division of the Department of Transportation and license issued by the division 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 Motor Vehicles Division of the Department of Transportation.

(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, $3.75.

(3) For filing and making entry of the assignment or satisfaction of any filed, but not recorded, instrument, $3.75.

(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, for each folio, $1.

(b) For copies not prepared by the clerk, but compared by the clerk, for each folio, 50 cents.

(5) For each official certificate, $3.75.

(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 13-1/2 inches, or less, long and 8-1/2 inches, or less, wide.

(b) For recording any instrument required or permitted by law to be recorded, for the first page, $4, for each additional page, $4, and for each rider, $1.50, but the minimum fee shall not be less than $4.

(c) For supplying to private parties copies of records or files, $3.75 for locating a record requested by the party and 25 cents for each page.

(d) For each official certificate, $3.75.

(7) For taking affidavit for and making and issuing marriage license and registering the return thereof, $25.

(8) For solemnizing a marriage under ORS 106.120, $10. This subsection does not require that the county clerk charge a fee for solemnizing a marriage after normal working hours or on Saturdays or legal holidays.

(9) For taking and certifying acknowledgment or proof of execution of any instrument, $3.75.

(10) For certifying to the term of office of a notary public, $2.50.

(11) For recording the commission of a notary public, $4.

(12) For issuing any license required by law, other than a marriage or liquor license, and for which no fee is otherwise provided by law, $4.

(13) For any service the clerk may be required or authorized to perform and for which no fee is provided by law, 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.

(14) For filing and recording any deed conveying real property, if required by ordinance pursuant to ORS 203.148. [Amended by 1957 c.359 §1; 1965 c.619 §38; 1971 c 621 §25; 1975 c.607 §24; 1979 c. 724 §6; 1979 c 833 §25, 1981 c.835 §13; 1981 s.s. c.3 §98; 1983 c.393 §24; 1985 c.582 §6]

205.325 Fee for preparing copy of illegible document. The fee for preparing a true copy of a document not sufficiently legible to reproduce a readable photographic record shall be $3.75 per page. [1965 c.301 §1 (2), 1971 c.621 §26, 1975 c 607 §25, 1979 c.833 §26, 1981 c 835 §14]

205.330 [Repealed by 1957 c.359 §3]

205.335 Fee for search and certificate by clerk. The clerk shall collect a fee of $12.50 for making the search and certificate provided for in ORS 205.230. [Formerly part of 205.230, 1971 c 621 §27; 1975 c.607 §26; 1979 c.833 §27; 1981 c.835 §15]

205.340 Indexing fees of clerk. The county clerk shall receive from the county for indexing records already made such compensation as the county governing body considers sufficient. For indexing every tract or lot of land thereafter in the direct or indirect indexes, a fee set by ordinance of the county governing body shall be paid the clerk by the person having the instrument recorded. [Amended by 1971 c.621 §28; 1975 c.607 §27; 1979 c.833 §28]

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 set by ordinance of the county governing body. [Amended by 1971 c.621 §29; 1975 c 607 §28; 1979 c.833 §29]

205.360 Clerk to receipt and account for certain probate fees collected. The clerk of the county court shall receive and receipt for fees prescribed in ORS 21.310 that are collected by the clerk, stating in the receipt the amount so received, from whom received and on what account the amount was received, specifying the cause or proceeding. If it is ascertained at any time that the clerk has received any such fees not so accounted for, or done service without collecting fees therefor as provided in ORS 21.310, or neglected duty in any other respect, the payment of salary of the clerk shall be withheld until the matter is fully rectified. [Amended by 1981 s.s. c.3 §99]

205.365 Disposition of County Clerk Lien Record fees. Within the first 10 days of the month following the month in which collected, all fees collected by a county clerk for recording and making entry of any instrument in the County Clerk Lien Record shall be paid to the county treasurer for deposit in a separate account in the county general fund. Moneys in such account shall be credited to the county clerk and used exclusively by the county clerk for payment of expenses incurred in maintaining the County Clerk Lien Record. [1983 c 696 §32]

205.370 Payment to and disposition of trial fees by court clerk. Trial fees in the 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 the fee book. The clerk shall pay the amount of such fees received to the treasurer of the county, as often as once a month, taking receipt therefor in duplicate, one of which the clerk shall file in the office of the clerk and the other the clerk may retain as 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 the clerk in the course of the year, verified by the oath of the clerk. [Amended by 1981 s.s. c.3 §100]

205.380 [Amended by 1963 c 519 §32; repealed by 1981 c 48 §8]

205.390 [Repealed by 1981 c 48 §8]

205.395 Payment of fees by state agencies for entry in County Clerk Lien Record. Notwithstanding the provisions of ORS 182.040 to 182.060 and 205.320 relating to the time and manner of payment of fees to the county clerk, a state officer or state agency that records a warrant or order with a county clerk for entry in the County Clerk Lien Record shall not be required to pay the fee for that service in advance or at the time the entry is made. The county clerk, on the 10th day of each month, shall provide the officer or agency with an itemized statement of all recordings made by the officer or agency for the preceding month, together with the total charge therefor. The officer or agency, upon receipt of the itemized statement, shall promptly pay the amount due the county. The fees that may be charged and collected by the county clerk for recording and making entry of any instrument in the County Clerk Lien Record are those fees prescribed for recording documents. [1983 c 696 §2]

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, for filing or recording any deed conveying real estate to the State or Oregon or for preparing or certifying a copy thereof.

MISCELLANEOUS PROVISIONS

205.510 County clerk not to act or have partner acting as attorney. (1) No county clerk shall during the term of office of that clerk institute or assist in instituting any suit, action or probate proceeding in any court of which the clerk 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 the deputies of the clerk are prohibited from practicing or having a partner practicing as an attorney-at-law, while in office.

205.520 [Repealed by 1981 c 48 §8]

205.530 [Repealed by 1981 c.48 §8]

PENALTIES

205.990 Penalties. Any officer who violates ORS 205.510 (1) shall be deemed guilty of official misconduct and punished therefor as provided by ORS 162.415. [Amended by 1959 c.552 §15, 1971 c.743 §346]