Chapter 205

2005 EDITION

County Clerks

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GENERAL PROVISIONS

205.010 Definitions. (1) As used in the statutes of this state in reference to a chattel mortgage and action by the appropriate recording officer, "record," "recorded" and "recording" mean "record or file," "recorded or filed" or "recording or filing," as the context requires.

(2) As used in this chapter:

(a) "Person" means an individual, organization, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest or any other legal or commercial entity.

(b) "Text" includes the words contained in the body of an instrument to be recorded and the names of the transactions contained in the instrument. The term does not include instructions for completing the instrument, form numbers or statutory references.

(c) "Transaction" means an action, including but not limited to a transfer, encumbrance or release affecting title to or an interest in real property, that is required or permitted by state law or rule or federal law or regulation to be recorded. [Amended by 1991 c.230 §10; 1993 c.321 §1; 2001 c.713 §1; 2005 c.82 §1]

POWERS AND DUTIES

205.110 General powers and duties of county clerk. (1) The county clerk in each county shall keep and maintain the records of the county governing body.

(2) 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.

(3) 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; 1991 c.230 §11]

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 for each order or warrant recorded:

(a) The name of any person subject to the order or warrant.

(b) The name of the officer and the agency that issued the order or warrant or the name of the claimant in whose favor an order of the Construction Contractors Board or State Landscape Contractors Board has been given. The name of the agency or board that issued the order or warrant must be clearly printed on the order or warrant.

(c) The amount of any monetary obligation imposed by the order or warrant, and the name of all persons against whom the obligation is imposed.

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

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

(f) County Clerk Lien Record instruments filed under ORS 205.130 (3)(c)(A) shall be on official letterhead and include the seals, if any, of the officers and agencies.

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

(2) From the date that an order or warrant is recorded in the County Clerk Lien Record, the order or warrant shall have the attributes and effect of a judgment that has been entered in the register of the circuit court for that county, including but not limited to the creation of a judgment lien for any monetary obligation in favor of the officer or agency issuing the order or warrant or in favor of the claimant in the proceedings before the Construction Contractors Board or State Landscape Contractors Board, renewal and enforcement by supplementary proceedings, writs of execution, notices of garnishment and writs of garnishment.

(3) From the date that an order or warrant imposing a monetary obligation is recorded in the County Clerk Lien Record, the order or warrant becomes a lien upon the title to and interest in property of the person against whom it is issued in the same man-

ner as a judgment that creates a judgment lien under ORS chapter 18.

(4) In addition to any other remedy provided by law, orders and warrants recorded in the County Clerk Lien Record may be enforced as provided in ORS 205.126. [1983 c.696 §1; 1985 c.343 §10; 1987 c.586 §30; 1989 c.706 §2; 1997 c.387 §1; 1999 c.153 §5; 1999 c.654 §13; 2003 c.576 §194]

205.126 Enforcement of order or warrant recorded in County Clerk Lien Record; renewal of order or warrant; notice of renewal. (1) At any time after recording an order or warrant in the County Clerk Lien Record, a claimant or an attorney for an agency or claimant may file in the circuit court for the county where the order or warrant is recorded, a copy of the original order or warrant certified by the agency to be a true copy of original, and an affidavit of the claimant or attorney verifying that the order or warrant was recorded in the County Clerk Lien Record for that county, the date that the order or warrant was recorded and the date on which any notice of renewal was recorded under subsection (2) of this section. Subject to any other requirements that may apply to the enforcement remedy sought by the agency or claimant, proceedings may thereafter be commenced by the agency or claimant for the enforcement of the order or warrant, in the same manner as provided for the enforcement of judgments issued by a court. Enforcement proceedings may include:

(a) Writ of execution proceedings under ORS 18.252 to 18.993.

(b) Proceedings in support of execution under ORS 18.265, 18.268 and 18.270.

(c) Garnishment proceedings under ORS 18.600 to 18.850.

(2) At any time within 10 years after the recording of an order or warrant, an agency or claimant, acting with or without the assistance of an attorney, may renew an order or warrant by recording a notice of renewal in the County Clerk Lien Record. A notice of renewal recorded within the time specified by this subsection has the attributes and effect of an extension of judgment remedies noted in the register under ORS 18.182, from the date that the notice is recorded. A notice of renewal recorded under this section must state:

(a) The name of the agency that issued the warrant or order or the name of the claimant in whose favor an order of the Construction Contractors Board or State Landscape Contractors Board has been given;

(b) The name of all persons against whom a monetary obligation is imposed under the order or warrant; and

(c) The date of recording and the recording number, the book and page number for the recording, or the volume and page number for the recording.

(3) For the purposes of this section:

(a) "Agency" means any state officer, board, commission, corporation, institution, department or other state body that has authority to record an order or warrant in the County Clerk Lien Record.

(b) "Claimant" means a person in favor of which a board order has been recorded under the provisions of ORS 671.707 or 701.150. [1997 c.387 §2; 1999 c.153 §6; 2001 c.249 §75; 2003 c.576 §195]

205.127 Recording in County Clerk Lien Record required for certain liens. The County Clerk Lien Record in each county where the real property is located is the place of recording a lien filed pursuant to CERCLA, 100 U.S. Stat 1630. [1987 c.586 §48]

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 a record of all maps, plats, contracts, powers of attorney and other interests affecting the title to real property required or permitted by law to be recorded.

(2) Record, or cause to be recorded, in a legible and permanent manner, and keep 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 and other interests affecting the title to real property required or permitted by law to be recorded;

(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) 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. A death certificate recorded in the deed records of a county under this subsection is a public record and is not subject to the disclosure limitations under ORS 432.121;

(d) Instruments presented for recording by the United States or the State of Oregon, or a political subdivision of either, that affect title to or an interest in real property or that lawfully concern real property; and

(e) Instruments recognized under state law or rule or federal law or regulation as affecting title to or an interest in real property if the instrument is properly acknowledged or proved.

(3) Keep and maintain:

(a) Deed and mortgage records;

(b) Statutory lien records;

(c) A record called the County Clerk Lien Record in which the following shall be recorded:

(A) The warrants and orders of officers and agencies that are required or permitted by law to be recorded; and

(B) All instruments presented for recordation when required or permitted by law to be recorded that affect the title to or an interest in real property, other than instruments recorded in the deed and mortgage records or the statutory lien records;

(d) Releases, satisfactions, assignments, amendments and modifications of recorded instruments; and

(e) Other instruments required or permitted by law to be recorded not affecting interests in real property.

(4) Perform all the duties in regard to the recording and indexing of deeds and mortgages of real property, contracts, abstracts of judgments, notices of pendency, powers of attorney and other interests when required or permitted by law to be recorded that affect the title of real property, and in regard to the entry of satisfaction and discharge of the same, together with other documents required or permitted by law to be recorded.

(5) Incur no civil or criminal liability, either personally or in an official capacity, for recording an instrument that does not comply with the provisions of law that require or allow the recording of the instrument. [Amended by 1983 c.696 §8a; 1983 c.709 §43; 1983 c.763 §63; 1985 c.471 §16; 1987 c.215 §22; 1987 c.586 §31; 1989 c.171 §28; 1989 c.179 §1; 1989 c.618 §11; 1989 c.706 §§1,2; 1989 c.738 §15; 1989 c.764 §4; 1989 c.795 §3; 1989 c.841§10; 1989 c.1035 §4; 1991 c.230 §12; 1993 c.321 §2; 1999 c.654 §14a; 1999 c.710 §9; 2001 c.713 §2]

205.135 Preparation of true copy of document not sufficiently legible to reproduce readable photographic record. Whenever the text of a document presented for recording may be made out but is not sufficiently legible to reproduce a readable photographic record, the county clerk shall require the person presenting it for recording to substitute a legible original document or 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); 1999 c.654 §15; 2005 c.22 §155]

205.140 Transcript or copy of record as evidence. A transcript of the record of any instruments duly recorded by the county clerk in any county 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 recorded in the office of any county clerk or read in evidence in any court with like force and effect as the original instrument. [Amended by 1999 c.654 §16]

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 direct general index and an indirect general index in the office of the clerk.

(2) The direct general index shall contain, but need not be limited to, the following:

(a) Date and time of reception.

(b) Names of grantors.

(c) Names of grantees.

(d) Nature or type of instrument.

(e) Volume and page where recorded or the instrument number.

(f) Remarks.

(g) Brief description of tract.

(h) To whom delivered.

(i) Fees received.

(3) The clerk shall make correct entries in the direct general index of every instrument recorded under the appropriate heading, entering the names of the grantors in alphabetical order.

(4) The indirect general index shall contain, but need not be limited to, the following:

(a) Date and time of reception.

(b) Names of grantees.

(c) Names of grantors.

(d) Nature or type of instrument.

(e) Volume and page where recorded or the instrument number.

(f) Remarks.

(g) Brief description of tract.

(5) The clerk shall make in the indirect 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.

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

(7) In lieu of both the direct general index and the indirect general index a county clerk may use a data processing device or computer to provide a combined index to books or records defined in law that shall contain the following:

(a) Date and time of reception.

(b) Names of grantees.

(c) Names of grantors.

(d) Nature or type of instrument.

(e) Recording number.

(f) Brief description of tract.

(g) To whom delivered.

(h) Fees received.

(i) When available, a reference to the instrument being released or discharged.

(j) Such other information as the county clerk may require.

(8) The county clerk shall provide public access to the combined index and otherwise meet the requirements of ORS chapter 192. [Amended by 1969 c.702 §1; 1987 c.586 §32; 1999 c.654 §17]

205.170 [Repealed by 1979 c.492 §1]

205.180 Entry in appropriate record of instruments received for recording. (1) The county clerk shall make in the appropriate record 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 place 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 where it is recorded. The date of record of such instrument is the date of recordation.

(3) Whenever any instrument has been recorded, the county clerk shall immediately make an entry in the record of the clerk with the amount paid as fee for recording.

(4) After such instrument has been recorded the county clerk shall return it to the person who recorded or is authorized to receive the same, writing the name of the person to whom it is delivered in the record. [Amended by 1987 c.586 §33; 1999 c.654 §18]

205.190 Record of plats and maps of towns, villages, cemeteries. Each county clerk shall maintain a record of all maps of towns, villages, or additions to the same, or cemeteries, within the county, together with any description, acknowledgment or other writing therein. The county clerk shall create and store the maps in accordance with archival standards for the preservation of the record. The clerk shall keep an index that may be part of the deed index and 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 this section 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 record of plats without charge therefor, and shall make notation in the index of the fact of such re-recording, giving the book and page or instrument number where the re-recording appears. The record of the original map so re-recorded, as well as the record of all maps recorded under this section, as well as all original maps or plats recorded prior to May 29, 1919, shall be safely kept in the office of the clerk. 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. [Amended by 1999 c.710 §10]

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 [Amended by 1961 c.726 §411; 1965 c.619 §37; part renumbered 205.335; repealed by 1991 c.230 §35]

205.232 Conditions for instruments to be recorded; exception. Except as provided in ORS 205.327, a county clerk shall not accept any instrument for recording unless the text of the instrument is typed, written or printed in 8-point type or larger on paper that is not larger than 14 inches long and 8-1/2 inches wide and which paper is of sufficient quality for recording photographically. However, this section does not apply to out-of-state notarial acts or to certified copies of public records presented to a county clerk for recording. [1991 c.230 §2; 1993 c.321 §3]

205.234 Requirements for first page of instruments to be recorded; cover sheet. (1) When any instrument is presented to a county clerk for recording, the first page of the instrument shall contain at least:

(a) The names of the transactions as required in ORS 205.236;

(b) The names of the persons described in ORS 205.125 (1)(a) and (b) and 205.160;

(c) The person and address (for mailing purposes only) to whom the instrument will be delivered as provided in ORS 205.180;

(d) For instruments conveying or contracting to convey fee title to any real estate and all memoranda of such instruments, the true and actual consideration paid for such transfer as required by ORS 93.030;

(e) For instruments conveying or contracting to convey fee title to any real estate, the tax statement information required by ORS 93.260; and

(f) For instruments recorded in the County Clerk Lien Record, the information described in ORS 205.125 (1)(c) and (e).

(2) Notwithstanding ORS 205.327, if an instrument presented for recording does not contain the information required by subsection (1)(a) to (f) of this section, a cover sheet may be prepared that contains the required information. The cover sheet shall be prepared by the person presenting the instrument for recording. The cover sheet may be attached to the instrument and shall be recorded as a part of the instrument. Any errors in the cover sheet shall not affect the transactions contained in the instrument itself. The cover sheet need not be separately signed or acknowledged. [1991 c.230 §3; 1993 c.321 §4]

205.236 Instrument describing two or more transactions; recordation; fee. (1) An instrument required or permitted by law to be recorded shall be clearly labeled in sufficient detail to enable the clerk to record the instrument in the appropriate record.

(2) An instrument describing two or more transactions required or permitted by law to be recorded as separate instruments may be recorded when the instrument is labeled in sufficient detail to enable the clerk to record the transactions in the appropriate records and:

(a) The transactions described in the instrument involve the same properties;

(b) The transactions are assignments, releases or satisfactions of any recorded instrument;

(c) The transactions are liens recorded under ORS 311.675;

(d) The transactions are municipal assessment liens being recorded under ORS 93.643;

(e) The instrument is recorded under ORS 371.650; or

(f) The instrument is a cooperative contract recorded under ORS 62.360.

(3) When an instrument described in subsection (2) of this section is accepted for recording by a county clerk, the county clerk shall enter the instrument into the appropriate records.

(4) Recording fees shall be charged for recording each additional transaction described in subsection (2) of this section and the fee shall be the fee provided for in ORS 205.320.

(5) Nothing in this section is intended to abolish the requirements for collection of the fees required under ORS 205.323.

(6) Recording an instrument under this section when the instrument is not clearly labeled does not affect the validity of the recordation.

(7) A county clerk shall not incur civil or criminal liability, either personally or in an official capacity, for recording an instrument under this section when the instrument is not labeled in sufficient detail to allow the clerk to record the transactions in all appropriate records. [1991 c.230 §5; 1993 c.321 §5; 1999 c.654 §20]

205.238 Return of instrument after recordation. In every county, the county clerk shall return any instrument presented for recording to the person authorized to receive the instrument. The county clerk shall return the instrument by personally delivering or mailing the instrument not later than the 10th business day, not counting days on which the recording office is closed, after the date of recordation. [1991 c.230 §6]

205.240 [1957 c.669 §§1,2; repealed by 1971 c.267 §16]

205.242 Clerk to receive and certify instruments during specified hours; exception. (1) Except as provided in subsection (2) of this section, in every county, the office of the county clerk shall receive and certify, as required by ORS 93.620, instruments presented for recording for a minimum of six hours between the hours of 9 a.m. and 4 p.m., including the first hour and the last hour, on every day except Saturdays, Sundays and other holidays.

(2) The provisions of this section may be modified for a fiscal year by the county governing body upon adoption of a resolution in which it determines in its discretion that a fiscal emergency exists. A resolution adopted under this subsection may be renewed, amended or repealed. Hours of recording shall not be reduced under the resolution to any extent greater than the reductions for other nonemergency county services housed within the same building. [1991 c.230 §7; 1995 c.784 §1; 1997 c.249 §58]

205.244 Recording of corrected instruments. (1) Any instrument that has been

previously recorded may be rerecorded to make corrections in the original instrument.

(2) The county clerk shall record any instrument presented for rerecording as provided in subsection (1) of this section. The corrected instrument need not be acknowledged again. The person presenting the instrument for rerecording shall cause a rerecording certificate to be affixed to the first page of the instrument or added as a new first page to the instrument. The rerecording certificate shall contain the words "RERECORDED TO CORRECT _____. PREVIOUSLY RECORDED IN BOOK _____ AND PAGE ____, OR AS FEE NUMBER ____."

(3) A county clerk shall not incur civil or criminal liability, either personally or in an official capacity, for recording a corrected instrument under this section. [1991 c.230 §9]

205.245 [Formerly 21.520; 1987 c.586 §34; 1991 c.230 §13; repealed by 1997 c.592 §6 (205.246 enacted in lieu of 205.245)]

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

(a) Financing statements recorded in the office of the county clerk under ORS 79.0501 (1)(a);

(b) Hospital and physician liens recorded under ORS 87.565;

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

(d) Cooperative contracts recorded under ORS 62.360;

(e) Special district assessments attaching to real property;

(f) Lien foreclosure statements recorded under ORS 87.202;

(g) A certified copy of the judgment or a lien record abstract or other liens affecting the title to real property;

(h) Building code exemptions required under ORS 455.320 and 455.345;

(i) Construction liens recorded under ORS 87.050;

(j) Liens upon chattels recorded under ORS 87.246;

(k) Liens on real property recorded under ORS 87.372;

(L) Employee benefit plan liens recorded under ORS 87.860;

(m) Attorney liens recorded under ORS 87.455 and 87.460;

(n) Long term care liens recorded under ORS 87.517;

(o) Ambulance services liens recorded under ORS 87.623;

(p) Community property records recorded under ORS 108.530;

(q) Sheriff transfer of records recorded under ORS 206.100;

(r) Corrected instruments required under ORS 205.244;

(s) Mineral and mining records required under ORS 517.030, 517.052, 517.160, 517.180, 517.210, 517.220, 517.280, 517.310 and 517.320;

(t) Copies of records certified by a county clerk or court clerk;

(u) Subdivision and partition plats recorded under ORS 92.140;

(v) Condominiums recorded under ORS chapter 100;

(w) Requests for notice of transfer or encumbrance or terminations of requests for notice of transfer or encumbrance presented for recordation under ORS 411.694;

(x) Bankruptcy documents presented for recordation under ORS 93.770; and

(y) A written warranty agreement under ORS 701.605.

(2) The county clerk shall charge and collect fees specified in ORS 205.320, 205.327 and 205.350 for recording an instrument required to be recorded under subsection (1) of this section.

(3) Indexes may be maintained for instruments recorded under subsection (1) of this section in the same manner as provided in ORS 205.160. [1989 c.791 §21; 1991 c.230 §14; enacted in lieu of 205.245 in 1997; 1999 c.654 §§21,21a; 2001 c.301 §23; 2001 c.445 §169; 2001 c.501 §9; 2003 c.638 §4; 2005 c.85 §2; 2005 c.169 §3]

Note: For transition provisions regarding secured transactions, see notes under 79.0628.

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 205.246 be filed in the office of the county clerk or that an instrument be filed in deed or mortgage records shall be considered to be a requirement that such instruments be recorded instead of being filed. [Formerly 21.530; 1991 c.230 §16]

205.260 [1985 c.613 §30; repealed by 1987 c.311 §10]

205.310 [Repealed by 1957 c.359 §3]

COLLECTION AND DISPOSITION OF FEES

205.320 Fees collected by county clerk; use of portion of certain fees. 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 filing and making entry when required by law of any instrument required or permitted by law to be filed, when it is not recorded, $5 for each page.

(2) For filing and making entry of the assignment or satisfaction of any filed, but not recorded, instrument, $5 for each page.

(3) For each official certificate, $3.75.

(4)(a) For purposes of this subsection, "page" means one side of a sheet 14 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, $5 for each page, but the minimum fee shall not be less than $5.

(c) For supplying to private parties copies of records or files, not more than $3.75 for locating a record requested by the party and 25 cents for each page.

(d) For each official certificate, $3.75.

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

(6) For solemnizing a marriage under ORS 106.120, $25. 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. This subsection does not prohibit a county clerk from charging and accepting a personal payment for solemnizing a marriage if otherwise authorized by ORS 106.120.

(7) For taking and certifying acknowledgment or proof of execution of any instrument, the fee established in the schedule adopted by the Secretary of State under ORS 194.164.

(8) For issuing any license required by law, other than a marriage or liquor license, and for which no fee is otherwise provided by law, $5.

(9) 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.

(10) For recording any instrument under ORS 205.130 (2), as required by ordinance pursuant to ORS 203.148.

(11) In addition to and not in lieu of the fees charged under subsection (4) of this section, for each additional municipal assessment lien recorded under ORS 93.643, $5.

(12) In addition to and not in lieu of the fees charged under subsection (4) of this section, for each additional assignment, release or satisfaction of any recorded instrument, $5.

(13) In addition to and not in lieu of the fees charged under subsection (4) of this section, for each additional transaction described under ORS 205.236, $5.

(14) In addition to and not in lieu of the fees charged under subsection (4) of this section, for each additional lien recorded under ORS 311.675, $5.

(15) For preparing and recording the certificate under ORS 517.280, $20 or such other fee that is established by the county governing body.

(16) In addition to and not in lieu of the fees charged under subsection (4) of this section, for each additional claim listed on an affidavit of annual compliance under ORS 517.210, $5.

(17) In addition to and not in lieu of the fees charged under subsection (4) of this section, for each additional name listed on a cooperative contract under ORS 62.360 (2) or for recording the termination of a cooperative contract under ORS 62.360 (4), $5.

(18) Notwithstanding any other law, five percent of any fee or tax that is not collected for the benefit of the county clerk shall be deducted from the fee or tax. The moneys deducted shall be expended for acquiring storage and retrieval systems, payment of expenses incurred in collecting the fee or tax and maintaining and restoring records as authorized by the county clerk. Moneys collected under this subsection shall be deposited in a county clerk records fund established by the county governing body. No moneys shall be deducted under this subsection from:

(a) Fees collected for the Domestic Violence Fund under ORS 106.045.

(b) Fees collected for conciliation services under ORS 107.615.

(c) Real estate transfer taxes enacted prior to January 1, 1998.

(d) Fees collected under ORS 205.323 for the Oregon Land Information System Fund.

[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; 1987 c.469 §2; 1987 c.586 §35; 1989 c.976 §35; 1991 c.230 §17; 1997 c.253 §1; 1999 c.654 §22; 2001 c.713 §3; 2003 c.565 §2]

205.323 Additional fees for recording certain instruments; use of fees. (1) In addition to and not in lieu of the fees charged and collected under ORS 205.320 and other fees, the following fees shall be charged and collected for the recording or filing of any instrument described in ORS 205.130:

(a) A fee of $1, to be credited as provided in subsection (3)(a) of this section; and

(b) A fee of $10, to be credited as provided in subsection (3)(b) of this section.

(2) Subsection (1) of this section does not apply to the recording or filing of the following:

(a) Instruments that are otherwise exempt from recording or filing fees under any provision of law;

(b) Any satisfaction of judgment or certificate of satisfaction of judgment; or

(c) Internal county government instruments not otherwise charged a recording or filing fee.

(3) Of the amounts charged and collected under this section:

(a) The recording or filing fee charged and collected under subsection (1)(a) of this section shall be deposited and credited to the Oregon Land Information System Fund established under ORS 306.132; and

(b) Of the recording or filing fee charged and collected under subsection (1)(b) of this section, five percent shall be credited for the benefit of the county, five percent shall be credited for the benefit of the county clerk for the purposes described in ORS 205.320 (18) and 90 percent shall be deposited and credited to the County Assessment and Taxation Fund created under ORS 294.187. [1989 c.796 §15; 1999 c.701 §3; 1999 c.788 §61; 1999 c.803 §8; 2001 c.501 §10; 2001 c.713 §5]

205.325 [1965 c.301 §1 (2); 1971 c.621 §26; 1975 c.607 §25; 1979 c.833 §26; 1981 c.835 §14; repealed by 1999 c.654 §37]

205.327 Penalty for presenting nonstandard instruments for recording. When an instrument required or permitted by law to be recorded is presented to a county clerk for recording, if the instrument does not comply with the requirements of ORS 205.232 and 205.234, the county clerk shall record the instrument, but shall charge and collect in advance a penalty of $20. The penalty authorized and collected under this section shall be in addition to and not in lieu of the fees charged under ORS 205.320 for recording the instrument. [1991 c.230 §4; 2001 c.713 §4]

205.330 [Repealed by 1957 c.359 §3]

205.335 [Formerly part of 205.230; 1971 c.621 §27; 1975 c.607 §26; 1979 c.833 §27; 1981 c.835 §15; repealed by 1991 c.230 §35]

205.340 [Amended by 1971 c.621 §28; 1975 c.607 §27; 1979 c.833 §28; repealed by 1987 c.469 §3 and 1987 c.586 §49]

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, order, a certified copy of the judgment or lien record abstract or other document 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. Except as provided in ORS 137.270 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; 1987 c.586 §36]

205.400 [Repealed by 1999 c.803 §10]

INVALID CLAIMS OF ENCUMBRANCE

205.450 Definitions for ORS 205.450 to 205.470. As used in ORS 205.450 to 205.470:

(1) "Encumbrance" means a claim, lien, charge or liability attached to and binding property.

(2) "Encumbrance claimant" means a person who purportedly benefits from the filing of an encumbrance.

(3) "Federal official or employee" has the meaning given the term "employee of the government" in the Federal Tort Claims Act (28 U.S.C. 2671).

(4) "Filing" includes filing or recording.

(5) "Invalid claim of encumbrance" means a claim of encumbrance that is not a valid claim of encumbrance.

(6) "Property" includes, but is not limited to, real and personal property.

(7) "State or local official or employee" means an appointed or elected official, employee or agent of:

(a) A branch of government of this state or a state agency, board, commission or department of a branch of government of this state;

(b) A state institution of higher education;

(c) A community college or local school district in this state;

(d) A city, county or other political subdivision in this state; or

(e) A public corporation in this state.

(8) "Valid claim of encumbrance" is an encumbrance that:

(a) Is an encumbrance authorized by statute;

(b) Is a consensual encumbrance recognized under the laws of this state; or

(c) Is an equitable, constructive or other encumbrance imposed by a court of competent jurisdiction. [1997 c.290 §1; 2005 c.22 §156]

205.455 Invalid claim of encumbrance; acceptance of filing prohibited; notice of invalid claim; form; posting notice; effect of filing invalid claim of encumbrance. (1) No person or county shall accept for filing an invalid claim of encumbrance.

(2) No person or county shall accept for filing a claim of encumbrance against the property of a federal official or employee or a state or local official or employee based on the performance or nonperformance of the official duties of the official or employee unless accompanied by an order from a court of competent jurisdiction authorizing the filing of the encumbrance.

(3) A claim of encumbrance against the property of a federal official or employee or a state or local official or employee based on the performance or nonperformance of the official duties of the official or employee that is not accompanied by an order from a court of competent jurisdiction is an invalid claim of encumbrance and has no legal effect.

(4) If an invalid claim of encumbrance against the property of a federal official or employee or against the property of a state or local official or employee is accepted for filing, the filing officer shall accept for filing a notice of invalid encumbrance signed and submitted by:

(a) The assistant United States attorney representing the federal agency of which the individual is an official or employee;

(b) The assistant attorney general representing the state official, employee or agent, or the state agency, board, commission, department or state institution of higher education of which the individual is an official, employee or agent; or

(c) The attorney representing the community college or local school district, political subdivision or public corporation of which the individual is an official, employee or agent.

(5) A notice of invalid encumbrance shall be in substantially the following form:

NOTICE OF INVALID ENCUMBRANCE
FILED AGAINST

_____ (Insert name)

(ORS 205.455)

_____ IS A _____
(Name) (Title)

NOTICE is hereby given that the document entitled _____, purporting to create an obligation against or an interest in the real or personal property of the person named above, filed and/or signed by _____ (insert name), and filed or recorded in book/reel/volume No. _____ on

page _____ or document/fee/file/instrument/microfilm No. _____ in the _____ (insert name of office where document was filed or recorded), is an invalid claim of encumbrance under ORS 205.450 and 205.455.

No order from a court of competent jurisdiction authorizing the filing of such encumbrance accompanied the filing and, pursuant to ORS 205.455, the encumbrance has no legal effect and is invalid.

A copy of this Notice of Invalid Encumbrance has been mailed this day by depositing a true copy of the notice in the United States mail, addressed to _____ (name and address of encumbrance claimant), the last-known address of _____ (insert name of encumbrance claimant).

DATED this ____ day of _____, ____.

_____
Attorney for _____

SUBSCRIBED AND SWORN to before me this ____ day of _____,____.

_____.
NOTARY PUBLIC FOR OREGON
My commission expires: _____

---

(6) A copy of the notice of invalid encumbrance filed under this section shall be posted at the county courthouse and mailed by the attorney to the encumbrance claimant at the encumbrance claimant's last-known address, if available.

(7) No person or county shall be liable under this section for accepting for filing an invalid claim of encumbrance or for accepting for filing a notice of invalid encumbrance.

(8) Filing a notice of invalid encumbrance under this section shall clear title to all property that is affected by the claim of encumbrance that is the subject of the notice of invalid encumbrance from all claims, liens, charges or liabilities attached to the property under the claim of encumbrance. [1997 c.290 §2]

205.460 Order to show cause why invalid claim of encumbrance should not be discharged; petition; hearing; release of invalid claim; application. (1) A person whose property is subject to an invalid claim of encumbrance may petition the circuit court of the county in which the person resides or in which the property is located for an order, which may be granted ex parte, directing the encumbrance claimant to appear at a hearing before the court and show cause why the claim of encumbrance should not be stricken and other relief provided by this section should not be granted. The court shall schedule the hearing no earlier than seven days after the date of the order. The scheduled date of the hearing shall allow adequate time for notice of the hearing under subsection (4) of this section.

(2) A petition under this section shall state the grounds upon which relief is requested, and shall be supported by the affidavit of the petitioner or the petitioner's attorney setting forth a concise statement of the facts upon which the motion is based.

(3) The petition and affidavit described in subsection (2) of this section shall be in substantially the following form:

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____,	)
Petitioner,	) Case No. _____
	)
	) PETITION FOR AN
	) ORDER STRIKING
v.	) AND RELEASING
	) ENCUMBRANCES,
	) AWARDING COSTS
	) AND ATTORNEY FEES
_____,	) AND ORDER TO
Respondent.	) SHOW CAUSE

Petitioner, _____ (insert name), by and through _____ (insert name and title of attorney for petitioner, if applicable), petitions this court, pursuant to ORS 205.460, for an order striking and releasing purported encumbrances, filed or recorded against Petitioner by Respondent, _____ (insert name or names) filed or recorded in book/reel/volume No. _____ on page _____ or document/fee/file/instrument/microfilm No. _____ in the_____ (insert name of office where document was filed or recorded), and for an order, pursuant to ORS 205.460, for costs and attorney fees required to bring this action, on the grounds that the purported encumbrances have no basis in law or fact. Petitioner further requests that this court enter an order requiring Respondent to appear before this court and to show cause why the above order should not be entered. Finally, Petitioner requests an order from the court requiring Respondent to pay penalties and damages as provided in ORS 205.470.

DATED this ____ day of _____, ____.

_____
Petitioner or Petitioner's Attorney

_____

_____

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____, Petitioner,	) Case No. _____
v.	) AFFIDAVIT OF _____
_____, Respondent.	)

STATE OF OREGON)
) ss.
County of _____)

I, _____ (insert name of affiant), after being duly sworn, depose and say:

1. I am the above-entitled petitioner (or the attorney for the petitioner) in this matter.

2. The information contained in this affidavit is of my own personal knowledge.

3. Attached as numbered exhibits are true and correct copies of the following documents that were filed or recorded in the _____ (insert name of office where documents were filed or recorded) on _____ (insert date):

(List and attach document(s))

4. For any purported encumbrances identified above the following is true. The encumbrance is not authorized by statute, was not entered into consensually, and is not an equitable, constructive or other encumbrance imposed by a court of competent jurisdiction.

DATED this ____ day of _____, ____.

_____
(Petitioner or Petitioner's Attorney)

SUBSCRIBED AND SWORN to before me this ____ day of _____, ____.

_____.
NOTARY PUBLIC FOR OREGON
My commission expires: _____

_____

(4) A copy of the petition and the order directing the encumbrance claimant to appear under this section shall be served upon the encumbrance claimant:

(a) By service in the manner provided for personal service of summons under ORCP 7; or

(b) By mailing a true copy of the petition, affidavit and order to the encumbrance claimant at the encumbrance claimant's last-known address, both by first class mail and by certified or registered mail, return receipt requested. A notice mailed under this paragraph is effective on the date that the notice is deposited with the United States Postal Service, properly addressed and postage prepaid.

(5) The order to show cause shall be in substantially the following form and shall clearly state that if the encumbrance claimant fails to appear at the time and place noted, the claim of encumbrance shall be stricken and released and that the encumbrance claimant shall be ordered to pay the costs and reasonable attorney fees incurred by the petitioner at trial and on appeal:

_____

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____, Petitioner,	) Case No. _____
v.	) ORDER TO SHOW CAUSE
_____, Respondent.	)

THIS MATTER came before the court on _____ (insert date) on Petitioner's Petition for an Order Striking and Releasing Encumbrances, Awarding Costs and Attorney Fees and Order to Show Cause. The court, having considered the petition, the Affidavit of _____ (insert name) and the attached exhibits, and it appearing to the court that there are sufficient grounds to issue an order to show cause,

IT IS HEREBY ORDERED that the Respondent, _____ (insert name), appear before this court on _____ (insert date), at _____ (insert time), to show cause why the petition should not be granted in its entirety.

IMPORTANT NOTICE:

IF YOU FAIL TO APPEAR AT THE ABOVE TIME AND PLACE, THE COURT MAY ENTER AN ORDER STRIKING AND RELEASING YOUR ENCUMBRANCE CLAIMS FILED AGAINST PETITIONER AND YOU MAY BE ORDERED TO PAY COSTS AND REASONABLE ATTORNEY FEES INCURRED BY THE PETITIONER.

DATED this ____ day of _____, ____.

_____
Circuit Court Judge

(6) If the court determines that the claim of encumbrance is invalid, the court shall issue an order striking and releasing the claim of encumbrance and may award costs and reasonable attorney fees at trial and on appeal to the petitioner to be paid by the encumbrance claimant. If the court determines that the claim of encumbrance is valid, the court shall issue an order so stating and may award costs and reasonable attorney fees at trial and on appeal to the encumbrance claimant to be paid by the petitioner.

(7) The procedure set forth in this section is not available against a person lawfully conducting business as:

(a) An institution, a savings bank, a national bank, an out-of-state bank, a federal savings bank or an extranational institution, as those terms are defined in ORS 706.008, or a subsidiary of an entity described in this paragraph;

(b) A savings association or a federal association, as those terms are defined in ORS 722.004, or a subsidiary of an entity described in this paragraph;

(c) A financial holding company, a bank holding company, a savings and loan holding company or a subsidiary of a financial holding company, a bank holding company or a savings and loan holding company;

(d) A credit union, as defined in ORS 723.006, or a federal credit union;

(e) A consumer finance company subject to the provisions of ORS chapter 725;

(f) A mortgage banker or a mortgage broker, as those terms are defined in ORS 59.840, a mortgage servicing company or any other mortgage company; or

(g) An insurer as defined in ORS 731.106.

(8) The procedure set forth in this section is not available against:

(a) An officer, agency, department or instrumentality of the federal government;

(b) An officer, agency, department or instrumentality of this state; or

(c) An officer, agency, department or instrumentality of a political subdivision or public corporation in this state. [1997 c.290 §3; 1999 c.59 §57; 2001 c.377 §42]

205.465 Claim of encumbrance against certain property invalid without judicial order. A claim of encumbrance against the property of a federal official or employee or against the property of a state or local official or employee based on the performance or nonperformance of official duties of the official, employee or agent shall be invalid unless an order from a court of competent jurisdiction authorizing the filing of the encumbrance is filed with the encumbrance. [1997 c.290 §4]

205.470 Liability for filing invalid claim of encumbrance. Any person who knowingly files, or directs another to file, an invalid claim of encumbrance shall be liable to the owner of the property bound by the claim of encumbrance for a sum of not less than $5,000 or for actual damages caused by the filing of the claim of encumbrance, whichever is greater, together with costs and reasonable attorney fees at trial and on appeal. Any grantee or other person purportedly benefited by an invalid encumbrance that is filed who willfully refuses to release the invalid encumbrance upon request of the owner of the property affected shall be liable to the owner for the damages and costs and reasonable attorney fees at trial and on appeal provided in this section. [1997 c.290 §5]

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.

205.515 Orders or warrants issued by state agency or officer; docketing; transfer to County Clerk Lien Record. (1) If an order or warrant issued by a state agency or officer was docketed in the judgment docket of the circuit court of any county before October 3, 1989, notice of satisfaction or release of the lien of an order or warrant so docketed shall be docketed in the same judgment docket in which the order or warrant was docketed.

(2) If an order or warrant issued by a state agency or officer was docketed in the judgment docket of a circuit court of any county before October 3, 1989, the officer or agency may cause such an order or warrant to be transferred to and recorded in the County Clerk Lien Record of the same county in which the order or warrant was originally docketed as provided in subsection (3) of this section. An order or warrant so transferred shall continue the lien created by the original docketing of the order or warrant.

(3) Upon request, the clerk of a circuit court shall supply to an officer or agency a certified copy of any order or warrant docketed in the judgment docket of a circuit court before October 3, 1989. That certified copy may then be recorded in the County Clerk Lien Record of the county where the circuit court is located in the same manner and with the same effect provided for the recording of original orders and warrants. Upon recording of the order or warrant, the agency or officer shall as soon as possible thereafter cause to be returned to the clerk of the circuit court that prepared the certified copy, the original of that certified copy reflecting the recording of the copy in the County Clerk Lien Record and the date of the recording. The clerk shall then cause to be entered in the register a notation reflecting the recording of the order or warrant in the County Clerk Lien Record and the date of the recording.

(4) Nothing in this section shall be construed to affect the status of liens created by, or require the transfer from, any judgment docket to any County Clerk Lien Record of any order or warrant docketed in a judgment docket before October 3, 1989. [1989 c.706 §5; 2003 c.576 §196]

205.520 [Repealed by 1981 c.48 §8]

205.525 Satisfaction of orders or warrants issued by state agency or officer; interest on penalties imposed by orders; recording release of lien in County Clerk Lien Record. (1) Interest on a penalty imposed by an order shall run from the date of issuance of a final order at the rate provided for interest on judgments provided for in ORS 82.010 unless the penalty is paid within the time allowed by law.

(2) An order or warrant may be satisfied by payment of the amount due under the order or warrant, any penalties or interest accruing in connection with the order or warrant under law, and all costs incurred by the agency in connection with recording, indexing or service of the order or warrant and the satisfaction thereof. When an order or warrant has been fully satisfied it shall be the responsibility of the agency or officer that issued the order or warrant to record a full satisfaction in each county in which the order or warrant was recorded.

(3) The lien of an order or warrant may be released only by the officer or agency that issued the order or warrant. A release of the lien may be recorded in the County Clerk Lien Record in which the order or warrant was recorded. If the officer or agency records a release, the cost of recording or indexing the release may be recovered in advance from the person seeking the release. [1989 c.706 §4; 2005 c.22 §157]

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]