

Chapter 93

2015 EDITION

Conveyancing and Recording

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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 the lawful agent or attorney of the person, 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 the lawful agent of the party 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 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) 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.

(2) 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 the instruments the true and actual consideration paid for the transfer, stated in terms of dollars. 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 the 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.

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

(4) 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. A particular form is not required for the statement so long as the requirements of this section are reasonably met.

(5) An instrument conveying or contracting to convey fee title to any real estate or a memorandum of the instrument may not 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.

(6) A transfer of death deed and an instrument revoking a transfer of death deed are not instruments subject to this section. [1967 c.462 §§1,3; 1967 s.s. c.7 §1; 1977 c.605 §1; 1999 c.654 §7; 2011 c.212 §23]

93.040 Mandatory statements for sales agreements, earnest money receipts or other instruments for conveyance of fee title to real property; liability of drafter and recorder. (1) The following statement shall be included in the body of an instrument transferring or contracting to transfer fee title to real property except for owner's sale agreements or earnest money receipts, or both, as provided in subsection (2) of this section: "BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, ORE-

GON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

(2) In all owner's sale agreements and earnest money receipts, there shall be included in the body of the instrument the following statement: "THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

(3) In all owners' sale agreements and earnest money receipts subject to ORS 358.505, there shall be included in the body of the instrument or by addendum the following statement: "THE PROPERTY DESCRIBED IN THIS INSTRUMENT IS SUBJECT TO SPECIAL ASSESSMENT UNDER ORS 358.505."

(4) An action may not be maintained against the county recording officer for recording an instrument that does not contain the statement required in subsection (1) or (2) of this section.

(5) An action may not be maintained against any person for failure to include in the instrument the statement required in subsection (1) or (2) of this section, or for recording an instrument that does not contain the statement required in subsection (1) or (2) of this section, unless the person ac-

quiring or agreeing to acquire fee title to the real property would not have executed or accepted the instrument but for the absence in the instrument of the statement required by subsection (1) or (2) of this section. An action may not be maintained by the person acquiring or agreeing to acquire fee title to the real property against any person other than the person transferring or contracting to transfer fee title to the real property.

(6) A transfer of death deed and an instrument revoking a transfer of death deed are not instruments subject to this section. [1983 c.718 §2; 1985 c.719 §1; 1989 c.366 §1; 1993 c.792 §40; 1995 c.5 §17; 2005 c.311 §1; 2007 c.424 §23; 2007 c.866 §7; 2009 c.892 §19; 2011 c.212 §24]

93.050 Gift or conveyance of life estate. A gift or conveyance of property under deed or other writing executed after June 30, 1993, to any person for the term of the life of the person, and after the death of the person to the children or heirs of the person, vests an estate or interest for life only in the grantee or person receiving the gift or conveyance, and remainder in the children or heirs. [1991 c.850 §3]

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.

93.125 [2001 c.311 §3; repealed by 2002 s.s.1 c.6 §3]

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 the tenant possesses or could lawfully

convey, does not work a forfeiture of the estate of the tenant, but passes to the grantee all the estate which the tenant could lawfully convey.

93.160 Conveyance by reversioners and remainderpersons to life tenant vests fee. When 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 death, then to other heirs of the testator, a conveyance to the life tenant from all reversioners or remainderpersons 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. [Amended by 2003 c.14 §35]

93.170 [Repealed by 1969 c.591 §305]

93.180 Forms of tenancy in conveyance or devise to two or more persons. (1) A conveyance or devise of real property, or an interest in real property, that is made to two or more persons:

(a) Creates a tenancy in common unless the conveyance or devise clearly and expressly declares that the grantees or devisees take the real property with right of survivorship.

(b) Creates a tenancy by the entirety if the conveyance or devise is to spouses married to each other unless the conveyance or devise clearly and expressly declares otherwise.

(c) Creates a joint tenancy as described in ORS 93.190 if the conveyance or devise is to a trustee or personal representative.

(2) A declaration of a right to survivorship creates a tenancy in common in the life estate with cross-contingent remainders in the fee simple.

(3) Except as provided in ORS 93.190, joint tenancy in real property is abolished and the use in a conveyance or devise of the words "joint tenants" or similar words without any other indication of an intent to create a right of survivorship creates a tenancy in common. [Amended by 1983 c.555 §1; 2007 c.64 §1; 2015 c.629 §5]

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 judgment of the court. [Amended by 1969 c.591 §275; 2003 c.576 §353]

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 the person 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 the person.

(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 the trustee or other fiduciary 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 Department of State Lands deed or patent given when original lost. (1) If parties to whom deeds have been issued by the Department 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 Department 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 department 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 installments of purchase price where two or more persons join as sellers 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 or sell and convey title to real property in exchange for a note for all or a part of the purchase price secured by either a mortgage or trust deed on the real property, unless a contrary purpose is expressed in the contract, note, mortgage or trust deed, the right to receive payment of deferred installments of the purchase price and the mortgage or trust deed, 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 or conveyance.

(2) If immediately prior to the execution of a contract of sale of real property, or a sale or conveyance of title to real property in exchange for a note for all or a part of the purchase price secured by a mortgage or trust deed on the 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, note, mortgage or trust deed, the right to receive payment of deferred installments of the purchase price of the property and the mortgage and trust deed shall likewise be subject to like rights of survivorship. [1957 c.402 §§1,2; 1969 c.591 §276; 1989 c.74 §1; 1997 c.99 §21]

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:

(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]

93.265 Notice to real property manager of certain actions; procedures; effect on title. (1) A real estate property manager, as defined in ORS 696.010, may request notice of any pending action, claim, lien or proceeding relating to a parcel of real property by recording in the county clerk's office

of the county in which any portion of the real property is situated a request for any notice required by law to be provided to the owner.

(2) A request submitted as allowed under subsection (1) of this section shall include the name and address of the property manager, the address and legal description of the property in question, the signature and real estate license number of the requester and the date of the request. The request for notification shall be valid for one year from filing.

(3) Compliance with subsection (1) of this section shall be deemed adequate upon mailing, by first class mail with postage prepaid, to the address provided in the form required under subsection (2) of this section.

(4) The county assessor of the county in which the notice is recorded shall note on the tax roll, prepared pursuant to ORS chapter 311, the filing made under subsection (1) of this section.

(5) No request, statement or notation filed under subsection (1) of this section shall affect title to the property or be deemed notice to any person that any person so recording the request has any right, title, interest in, lien or charge upon the property referred to in the request for notice. [1989 c.1062 §2; 2001 c.300 §58]

93.268 Notice to state agency of transfer or encumbrance of real property by title insurance company. (1) As used in this section, "encumbrance" has the meaning given that term in ORS 411.692.

(2) A title insurance company or agent that discovers the presence of a request for notice of transfer or encumbrance pursuant to ORS 411.694 in the deed and mortgage records when performing a title search on real property shall:

(a) Provide the state agency that filed the request with a notice of transfer or encumbrance of the real property within 30 days of a transfer or encumbrance that results in the issuance of a certificate of title insurance; and

(b) Disclose the presence of the request for notice of transfer or encumbrance in any report preliminary to, or any commitment to offer, a certificate of title insurance for the real property.

(3) If the Department of Human Services or the Oregon Health Authority has caused to be recorded a termination of request for notice of transfer or encumbrance in the deed and mortgage records, a title insurance company or agent is no longer required to provide the notice of transfer or encumbrance required by subsection (2)(a) of this section for the affected real property.

(4) A title insurance company or agent shall use the form adopted under ORS 411.694 or a form substantially similar to that form when providing the notice required by subsection (2)(a) of this section. [2003 c.638 §3; 2011 c.720 §54]

Note: 93.268 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 93 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

93.269 Declaration or covenant related to future fees, commissions or payments to declarant; recording; exceptions. (1) An instrument that conveys, or contracts to convey, a fee simple interest in real property may not cause, or purport to cause, a declaration or covenant to be filed or recorded against the title to the real property if the declaration or covenant requires, or purports to require, the payment of a fee, commission or other payment to the declarant or to another person specified in the declaration or covenant, or to the declarant's or other person's successors or assigns, upon a transfer of a fee simple interest in the property.

(2) A declaration or covenant that requires, or purports to require, the payment of a fee, commission or other payment upon the transfer of a fee simple interest in real property to the declarant or other person specified in the declaration or covenant, or to the declarant's or other person's successors or assigns, upon a transfer of a fee simple interest in the property or that otherwise violates subsection (1) of this section, is void.

(3) Subsections (1) and (2) of this section do not apply to the following:

(a) An instrument that conveys or contracts to convey a fee simple interest in real property that provides for a grantee to pay consideration to a grantor for the interest in real property being transferred, including but not limited to any subsequent additional consideration for the property the grantee must pay based upon any subsequent appreciation, development or sale of the property.

(b) A requirement in a mortgage loan agreement for paying mortgage principal, interest and fees upon sale of the property by the mortgagor.

(c) A limited liability company, limited liability partnership, corporation, joint venture or partnership agreement in which a member, shareholder, joint venturer or partner contributes real property to the limited liability company, limited liability partnership, corporation, joint venture or partnership.

(d) An agreement that provides for a series of related transfers of the fee simple interest in a real property, if the agreement identifies with specificity the price of the

transferred interest, all consideration given, party names and other essential terms for each transfer of interest that is part of the series.

(e) An affordable housing covenant, servitude, easement, condition or restriction in a deed, declaration, land sale contract, loan agreement, promissory note, trust deed, mortgage, security agreement or other instrument, including but not limited to instruments created as provided under ORS 456.270 to 456.295 if:

(A) The proceeds of any fee, commission or other payment to a declarant or to another person specified in the instrument, or to the declarant's or other person's successors or assigns, are used exclusively to benefit the property, or to support activities that directly benefit the residents of the property, that is subject to the instrument; and

(B) The instrument is executed by:

(i) A public body as defined in ORS 174.109;

(ii) An agency of the United States;

(iii) A public benefit corporation, religious corporation or foreign corporation, all as defined in ORS 65.001, if the purposes of the corporation include providing affordable housing for low income households and moderate income households as those terms are defined in ORS 456.270;

(iv) A limited liability company, as defined in ORS 63.001, that has a membership composed of one or more corporations described in sub subparagraph (iii) of this subparagraph;

(v) A consumer housing cooperative as defined in ORS 456.548;

(vi) A manufactured dwelling park non-profit cooperative, as defined in ORS 62.803; or

(vii) A federally recognized Indian tribe.

(f) A requirement for the payment of a fee to:

(A) A homeowners association as defined in ORS 94.550;

(B) An association of unit owners as defined in ORS 100.005;

(C) A managing entity of a timeshare plan, as those terms are defined in ORS 94.803;

(D) Any other owners' association that is governed by recorded covenants, conditions and restrictions; or

(E) An agent for an association or managing entity described in subparagraphs (A) to (D) of this paragraph.

(g) An agreement between a real estate licensee and a grantor or grantee that pro-

vides for any commission payable to the real estate licensee for the transfer of the real property. [2009 c.298 §1; 2015 c.436 §1]

Note: 93.269 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 93 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

93.270 Certain discriminatory restrictions in conveyancing instruments prohibited; restriction on right of action.

(1) A person conveying or contracting to convey fee title to real property may not include in an instrument for that purpose a provision:

(a) Restricting the use of the real property by any person or group of persons by reason of race, color, religion, sex, sexual orientation, national origin or disability.

(b) Restricting the use of the real property by any home or facility that is licensed under ORS 443.400 to 443.455 or 443.705 to 443.825 to provide residential care alone or in conjunction with treatment or training or a combination thereof.

(2) Any provision in an instrument executed in violation of subsection (1) of this section is void and unenforceable.

(3) An instrument that contains a provision restricting the use of real property in a manner listed in subsection (1)(b) of this section does not give rise to any public or private right of action to enforce the restriction.

(4)(a) An instrument that contains a provision restricting the use of real property by requiring roofing materials with a lower fire rating than that required in the state building code established under ORS chapter 455 does not give rise to any public or private right of action to enforce the restriction in an area determined by a local jurisdiction as a wildfire hazard zone. Prohibitions on public or private right of action under this paragraph are limited solely to considerations of fire rating.

(b) As used in this subsection, "wildfire hazard zones" are areas that are legally declared by a governmental agency having jurisdiction over the area to have special hazards caused by a combination of combustible natural fuels, topography and climatic conditions that result in a significant hazard of catastrophic fire over relatively long periods each year. Wildfire hazard zones shall be determined using criteria established by the State Forestry Department. [1973 c.258 §1; 1989 c.437 §1; 1991 c.801 §7; 1993 c.311 §1; 1993 c.430 §3; 2007 c.70 §20; 2007 c.100 §16; 2009 c.595 §61]

93.272 Procedure for removal of certain discriminatory restrictions. (1) Any owner of record of real property that is subject to an instrument conveying or contract-

ing to convey fee title to the property that contains a provision that is in violation of ORS 93.270 may file a petition to remove that provision from the title to the property. The petition shall be filed in the circuit court for the county in which the property is located. No fee shall be charged for the filing of the petition. The petition shall contain:

- (a) The name and mailing address of the person filing the petition;
- (b) The name and mailing address of all owners of record of the property;
- (c) The legal description of the property subject to the provision in violation of ORS 93.270; and
- (d) A clear reference to the provision claimed to be in violation of ORS 93.270.

(2) Notice and a copy of the petition shall be served on all owners of record in any manner provided for in ORCP 7. The notice shall inform the owners of record that:

- (a) The petition seeks the removal of a provision that is in violation of ORS 93.270 from the title to the property;
- (b) The person served may request a hearing within 10 days after service of the petition; and
- (c) The court is authorized to enter a default judgment removing the provision if no hearing is requested by the owners of record.

(3) The petitioner shall file with the court proof of service in the manner provided in ORCP 7 F. If no request for hearing is made by any person served within 10 days after service on that person, the court shall enter a judgment removing the provision from the title to the property if the court determines that the provision is in violation of ORS 93.270.

(4) If a hearing is requested by any person served under subsection (2) of this section, the clerk of the court shall schedule a hearing within 20 days after the filing of the request for a hearing. The clerk of the court shall mail notification of the hearing date to the petitioner and to all owners of record listed in the petition.

(5) At any hearing under the provisions of this section, the sole issue that shall be decided by the court is whether the provision that is the subject of the petition is in violation of ORS 93.270. The matter shall be tried to the court sitting without jury. If the court finds that the provision is not in violation of ORS 93.270, the court shall dismiss the petition. If the court finds that the provision is in violation of ORS 93.270, the court shall enter a judgment removing the provision from the title to the property.

(6) If a court finds only part of a provision to be in violation of ORS 93.270 under this section, the court shall enter a judgment removing only that part of the provision that is in violation.

(7) For the purposes of this section, "owner of record" means a person having any legal or equitable interest in property, including, but not limited to, a purchaser, lienholder or holder of any security interest in such property whose interest is recorded in the public records provided for by Oregon statutes where the owner's interest must be recorded to perfect a lien or security interest or provide constructive notice of the owner's interest. [1991 c.850 §2]

93.273 [1989 c.523 §2; renumbered 93.275 (3) in 1993]

93.275 Incidents not material facts to real property transaction; legislative findings. (1) The following are among incidents that are not material facts to a real property transaction:

(a) The fact or suspicion that the real property or a neighboring property was the site of a death by violent crime, by suicide or by any other manner;

(b) The fact or suspicion that the real property or a neighboring property was the site of a crime, political activity, religious activity or any other act or occurrence that does not adversely affect the physical condition of or title to real property;

(c) The fact or suspicion that an owner or occupant of the real property has or had human immunodeficiency virus or acquired immune deficiency syndrome;

(d) The fact or suspicion that a sex offender registered under ORS 163A.010, 163A.015, 163A.020 or 163A.025 resides in the area; and

(e) The fact that a notice has been received that a neighboring property has been determined to be not fit for use under ORS 453.876.

(2) The Legislative Assembly finds that there is no known risk of the transmission of human immunodeficiency virus or acquired immune deficiency syndrome by casual contact. [1989 c.523 §3; subsection (3) formerly 93.273; 2001 c.701 §1; 2003 c.559 §2; 2011 c.271 §21]

93.280 Manner of conveyance to create joint property rights. (1) Any person or persons owning real property which the person or persons have power to convey may convey such property by a conveyance naming the person or persons 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 the purchaser 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 the purchaser entitled to recover any portion thereof that the purchaser 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.

93.312 Oregon Coordinate System. (1) As used in this section, "Oregon Coordinate System" means a coordinate mapping system, composed of three coordinate projection mapping systems known as:

(a) The Oregon State Plane Coordinate System of 1927;

(b) The Oregon State Plane Coordinate System of 1983; and

(c) The Oregon Coordinate Reference System.

(2) A description of land that contains coordinates associated with the position of a point on a land boundary must:

(a) Use the Oregon Coordinate System;

(b) Use one specified zone and system for the entire description;

(c) Include coordinate system datum with epoch and zone designation;

(d) Use coordinates established by a survey connection to the National Spatial Reference System;

(e) Reference a survey of record that reports the accuracy of coordinates at a 95 percent confidence level; and

(f) Include distances, bearings, areas and other boundary elements.

(3) The Department of Transportation shall adopt rules implementing the Oregon Coordinate System. [2011 c.179 §1]

Note: 93.312 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 93 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

93.320 [Amended by 1985 c.202 §1; repealed by 2011 c.179 §6]

93.330 [Amended by 1985 c.202 §2; repealed by 2011 c.179 §6]

93.340 [Repealed by 1985 c.202 §7]

93.350 [Amended by 1985 c.202 §3; repealed by 2011 c.179 §6]

93.360 [Amended by 1979 c.129 §1; 1985 c.202 §4; repealed by 2011 c.179 §6]

93.370 [Amended by 1985 c.202 §5; repealed by 2011 c.179 §6]

93.380 [Amended by 1985 c.202 §6; repealed by 2011 c.179 §6]

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 the 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 Subpoena to compel witness to testify to execution of deed. Upon the application of any grantee, or any person claiming under the grantee, verified by the oath of the applicant setting forth that the grantor is dead, out of the state, or refuses to acknowledge the 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 the evidence of the witness, any officer authorized to take the acknowledgment or proof of conveyances may issue a subpoena requiring the witness to appear and testify before the officer touching the execution of the conveyance. [Amended by 1981 c.11 §2]

93.470 Indorsement of certificate of proof. Every officer who takes the proof of any conveyance shall indorse a certificate thereof, signed by the officer, on the conveyance. In the certificate the officer 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

EXECUTION, ACKNOWLEDGMENT AND PROOF OF INSTRUMENTS

93.410 Execution and acknowledgment of deeds. Except as otherwise provided by law, deeds executed within this state, of lands or any interest in lands therein, shall be signed by the grantors and shall 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; 1999 c.654 §8]

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 the successor of the judge. [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 the place of residence of the witness, and that the witness 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 the witness is

recorded in the same manner as deeds of real property.

RECORDATION AND ITS EFFECTS

93.600 Description of real property for purposes of recordation. Unless otherwise prescribed by law, real property shall be described for recordation by giving the subdivision according to the United States survey when coincident with the boundaries thereof, or by lots, blocks and addition names, or by partition plat recording and parcel numbers, or by giving the boundaries thereof by metes and bounds, or by reference to the book and page, document number or fee number of any public record of the county where the description may be found or in such other manner as to cause the description to be capable of being made certain. However, description by tax lot number shall not be adequate. Initial letters, abbreviations, figures, fractions and exponents, to designate the township, range, section or part of a section, or the number of any lot or block or part thereof, or any distance, course, bearing or direction, may be employed in any such description of real property. [1987 c.586 §2; 1989 c.772 §26; 1995 c.382 §10]

93.610 Separate books for recording deeds and mortgages; consolidated index. (1) 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 93.779 to 93.802, 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. All other real property interests required or permitted by law to be recorded shall be recorded in the records maintained under ORS 205.130 or in records established under any other law.

(2) Counties maintaining a consolidated index shall record deeds and mortgages and index them in the consolidated index in such a manner as to identify the entries as a deed or mortgage record. All other real property interests required or permitted by law to be recorded shall be recorded in the records kept and maintained under ORS 205.130 or in records established under any other law. [Amended by 1969 c.583 §1; 1987 c.586 §21; 1999 c.654 §§9]

93.620 Time and place of recording; certification. The county clerk shall certify upon every instrument recorded by the county clerk the time when it was recorded and a reference to where it is recorded. Every instrument is considered recorded at the time it was so certified. [Amended by 1999 c.654 §10]

93.630 Index to record of deeds, mortgages and other real property interests.

The county clerk shall also keep a proper direct index and a proper indirect index to the record of deeds, mortgages and all other real property interests required or permitted by law to be recorded, in which the county clerk shall enter, alphabetically, the name of every party to each instrument recorded by the county clerk, with a reference to where it is recorded. [Amended by 1987 c.586 §22; 1999 c.654 §11]

93.635 Acknowledgment and recording of instruments contracting to convey fee title. (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. Except for those instruments listed in subsection (2) of this section, all 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) The following instruments contracting to convey fee title to any real property may be recorded as provided in subsection (1) of this section, but that subsection does not require such recordation of:

- (a) Earnest money or preliminary sales agreements;
- (b) Options; or
- (c) Rights of first refusal. [1975 c.618 §4; 1977 c.724 §1; 1987 c.586 §23]

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, assignment of all or any portion of a seller's or purchaser's interest in a 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, assignment of all or any portion of a seller's or purchaser's interest in a 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, "every conveyance, deed, land sale contract, assignment of all or any portion of a seller's or purchaser's interest in a land sale contract or other agreement or memorandum thereof affecting the title of real property" includes mortgages, trust deeds, and assign-

ments for security purposes or assignments solely of proceeds, given by purchasers or sellers under land sale contract. 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; 1987 c.225 §1; 1989 c.516 §1]

93.643 Method of giving constructive notice of interest in real property; electronic lien records. (1) To give constructive notice of an interest in real property, a person must have documentation of the interest recorded in the indices maintained under ORS 205.130 in the county where the property is located. Such recordation, and no other record, constitutes constructive notice to any person of the existence of the interest, except:

(a) Constructive notice may be given as provided in ORS 311.405 and 446.515 to 446.547 and ORS chapters 87, 450, 451, 452, 453, 454, 455 and 456 and local government charters; or

(b) A city may give constructive notice of a governmental lien by maintaining a record of the lien in an electronic medium that is accessible online during the regular business hours of the city.

(2) Notwithstanding subsection (1) of this section:

(a) A judgment lien attaches to real property of the judgment debtor as provided in ORS chapter 18.

(b) A lien shall be created against all real property of the person named in an order or warrant as provided in ORS 205.125 if the order or warrant is recorded in the County Clerk Lien Record.

(c) Constructive notice of either a local improvement district estimated assessment

or a system development charge installment payment contract pursuant to ORS 223.290, created after September 9, 1995, is given only by one of the following methods:

(A) By recording the notice of estimated assessment or the acceptance of the system development charge installment payment contract in the indices maintained under ORS 205.130 in the county in which the property is located. The recording shall include a description of real property in the manner prescribed in ORS 93.600. The city shall continue to maintain the bond lien docket as prescribed in ORS 223.230. The bond lien docket shall include a reference to the county recording by a document fee number or book and page number.

(B) By recording the notice of estimated assessment or the acceptance of the system development charge installment payment contract through an online electronic medium. The electronic lien record shall be the controlling lien record, to the exclusion of any informational recording made by the city in county indices. The city informational recording shall include a clear statement of the purpose of the recording and a reference to the location of the electronic lien record.

(3) A city that maintains records through an online electronic medium shall comply with the following requirements:

(a) Each lien record shall consist of the effective date of the recording, a reference to the location of source documents or files, a description of real property in the manner prescribed in ORS 93.600, a site address, if appropriate, a state property identification number or county property tax identification number, a lien account number or other account identifier, the amount of the estimated assessment or system development charge installment payment contract, the final assessment in the case of a local improvement assessment district and the current amount of principal balance.

(b) Lien records shall be accessible through the online electronic medium to any individual or organization by mutual agreement with the city. Users of the online electronic medium shall be authorized to access the lien records from equipment maintained at sites of their choosing.

(4) Recording of the satisfaction of a local improvement district assessment or system development charge installment payment contract shall be made in the same location as the original recording, either in the indices maintained under ORS 205.130 or in the lien docket maintained through an electronic medium as provided in this section.

(5) A city that establishes an electronic lien record as authorized by this section

shall record in the County Clerk Lien Record maintained under ORS 205.130 a statement that indicates the date and time at which the electronic lien record takes priority over the County Clerk Lien Record and that describes the methods by which the electronic lien records of the city are made accessible. [1987 c.586 §2a; 1995 c.709 §1; 1997 c.840 §1; 2003 c.576 §229]

93.645 Priority of purchaser; extinguishing judgment lien; right of judgment creditor; "judgment" defined. (1) The interest of the purchaser, the heirs and assigns of the purchaser, 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, the heirs and assigns of the seller, and conveyance 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, judgments 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) Judgments of courts 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, judgment, 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. [Amended by 1979 c.284 §93]

93.690 Recording of instruments evidencing passage of title to land from United States to State of Oregon. (1) The Director of the Department 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 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 the recording officer shall return them to the Director of the Department 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. [Amended by 1999 c.803 §1]

93.710 Instruments or memoranda creating certain interests in realty; contents; reforestation order; 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. Any instrument creating a mortgage or trust deed, or a memorandum thereof, or assignment for security purposes relating to any of the interests or estates in real property referred to in this subsection, which is executed by the person from whom the mortgage, trust deed, or assignment for security purposes is intended to be given, 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 mortgages 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) Any notice under ORS 527.710 or order under ORS 527.680 by the State Forester requiring the reforestation of specific lands may be indexed and recorded in the records of deeds of real property in the county where such real property is located. Such recordation constitutes notice to third persons of the rights and obligations of the parties to the notice or order. Any such notice or order when properly prepared in the manner prescribed by law by any of the authorized officers may be read in evidence without further proof thereof.

(3)(a) As used in this section, "memorandum" means an instrument that:

(A) Contains the date of the instrument being memorialized;

(B) Contains the names and addresses of the parties;

(C) Contains 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

(D) Is acknowledged or proved in the manner provided for the acknowledgment or proof of deeds.

(b) In addition to the requirements of paragraph (a) of this subsection, a memorandum of a mortgage or trust deed shall contain:

(A) The legend "Memorandum of Mortgage" or "Memorandum of Trust Deed" either in capital letters or underscored above the body of the memorandum;

(B) A description of any collateral encumbered by the mortgage or trust deed, other than the real property, that can be perfected by filing in the real property records of the county in which the collateral is situated;

(C) A description in general terms of the obligation or obligations secured and a statement of the term or maturity date, if any, of the obligation or obligations;

(D) A statement by the mortgagee or beneficiary that a complete copy of the mortgage or trust deed is available upon written request to the mortgagee or beneficiary; and

(E) If the mortgage or trust deed constitutes a line of credit instrument as defined in ORS 86.155, the information required to appear on the front page of the instrument under ORS 86.155 (1)(b).

(c) In addition to the requirements of paragraph (a) of this subsection, 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; 1983 c.759 §2; 1987 c.225 §2; 1997 c.152 §2]

93.720 [Amended by 1985 c.540 §28; repealed by 1987 c.586 §49]

93.730 Recordation of judgment in other counties. A certified copy of any judgment or order of confirmation affecting lands in this state made in any action 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 in the action. After the transcript is so recorded, the judgment is notice to all persons of the action and of the judgment or

order, 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. [Amended by 2003 c.576 §354]

93.740 Notice of lis pendens; contents; recordation; effect; discharge. (1) 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 have recorded by the county clerk or other recorder of deeds of every county in which any part of the premises lies 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 the attorney of the party. From the time of recording 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.

(2) Except as provided in subsection (3) of this section, a conveyance or encumbrance that is not recorded in the manner provided by law before the filing of a notice of pendency that affects all or part of the same real property is void as to the person recording the notice of pendency for all rights and equities in the real property that are adjudicated in the suit. The provisions of this subsection apply only to a conveyance or encumbrance that under the provisions of ORS 93.640 would be void as against a subsequent purchaser whose interest in the property is of record at the time the notice of pendency is recorded and who purchased the property in good faith and for valuable consideration.

(3) A conveyance or encumbrance is not void under subsection (2) of this section if:

(a) The person who records a notice of pendency under this section has notice of the conveyance or encumbrance at the time the notice of pendency is recorded or otherwise does not act in good faith in recording the notice of pendency; or

(b) Pursuant to ORCP 33, the court allows a person claiming an interest in real property under the conveyance or encumbrance to intervene in the suit for the purpose of seeking adjudication of the person's interest or priority in the property.

(4) Unless otherwise prescribed by law, a party recording a notice of pendency shall use substantially the following form:

NOTICE OF PENDENCY
OF AN ACTION

Pursuant to ORS 93.740, the undersigned states:

1. As plaintiff(s), _____, has filed an action in the _____ Court for _____ County, State of Oregon;
2. The defendant(s) is/are: _____;
3. The object of the action is: _____;
4. The description of the real property to be affected is: _____;

Dated this _____ day of _____,

Plaintiff or
Plaintiff's attorney

Name: _____
Address: _____

Phone No.: _____
STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by _____.

Notary Public for Oregon
My commission expires: _____
STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by _____ of _____, a corporation, on behalf of the corporation.

Notary Public for Oregon
My commission expires: _____

[Amended by 1987 c.586 §24; 1997 c.598 §1]

93.750 [Repealed by 1991 c.230 §35]

93.760 Recordability of documents, orders and decrees of the United States District Court. 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. [Amended by 1985 c.540 §46; 1987 c.586 §47]

93.770 Recordability of notices of bankruptcy and petitions, orders and judgments from bankruptcy cases. (1) A debtor or a trustee in bankruptcy, or the attorney representing either, may present a notice of bankruptcy for recordation in the deed records of a county in which real property that is owned by the debtor or in which the debtor has an interest is located. The notice of bankruptcy may contain a legal description of specific real property, if known, and must:

- (a) Be signed by the individual filing the notice;
- (b) Be acknowledged in the manner required for acknowledgment of a deed;
- (c) State the name of the debtor;
- (d) Identify the district court in which the case is pending, the bankruptcy case number and the bankruptcy chapter filed;
- (e) State the name, if applicable, of a trustee for the bankruptcy estate of the debtor, an attorney representing the debtor and an attorney representing the trustee; and
- (f) State that the bankruptcy case affects real property in the county that is owned by the debtor or in which the debtor has an interest.

(2) Once recorded in the deed records of a county, the notice of bankruptcy may be released by filing for recordation in the same county:

- (a) After expiration of the notice period, a copy of a notice of intent to abandon the real property in a form approved by the bankruptcy court and certified by the clerk of the bankruptcy court;
- (b) A copy of a judicial order, certified by the clerk of the bankruptcy court, authorizing abandonment of the real property; or
- (c) A copy of a judicial order, certified by the clerk of the bankruptcy court, authorizing closure or dismissal of the bankruptcy case if the real property was not otherwise administered in the case.

(3) A copy of the following documents from a bankruptcy case or an adversary proceeding under the federal bankruptcy laws may be presented for recordation in the deed records of a county in which real property that is owned by the debtor or in which the debtor has an interest is located if the copy is certified by the clerk of the bankruptcy court:

(a) A petition, with the schedules omitted.

(b) An order or judgment filed and entered. [Amended by 2005 c.85 §1]

93.779 Definitions for ORS 93.779 to 93.802. As used in ORS 93.779 to 93.802:

(1) "Master form instrument" means an instrument containing a form or forms of covenants, conditions, obligations, powers and other clauses of a mortgage, a trust deed or an instrument creating affordable housing covenants.

(2) "Short form instrument" means a short form mortgage, a short form trust deed or any instrument that documents a real estate transaction that incorporates by reference and applies all or any affordable housing covenants created in a recorded master form instrument into the transaction. [2012 c.6 §2]

93.780 Recordation of master form instrument. Upon request of any person and on tender of the required fee, the county clerk shall record a master form instrument in the name of the person causing it to be recorded. [1969 c.583 §2; 2012 c.6 §3]

93.790 Incorporation of master form instrument by reference in short form instrument; effect of deviation. (1) After a master form instrument is recorded pursuant to ORS 93.780, subject to subsection (3) of this section, the person that caused the master form instrument to be recorded may cause all or any of the provisions of the master form instrument to apply to real estate situated within the county in which the master form instrument was recorded by incorporating all or any of the provisions of the master form instrument by reference in a short form instrument, if the reference in the short form instrument states:

(a) That the master form instrument was recorded in the county in which the short form instrument is offered for record;

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

(c) That a copy of the master form instrument was furnished to the party executing the short form instrument at or before the time the party executes the short form instrument.

(2) The recording of a short form instrument that incorporates 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 short form instrument.

(3) If a short form instrument recorded as provided in this section deviates in any respect from a recorded master form instru-

ment and fails to describe the deviation as required by ORS 93.802 (4), the portion of the short term instrument that deviates from the master form instrument is deemed not to be notice to third parties. [1969 c.583 §§3,5; 2012 c.6 §4]

93.800 Matter not to be recorded when accompanying short form instrument; liability for nonrecording. (1) A county clerk may not record matter accompanying a short form instrument presented for recording if the 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 short form instrument so that it will not appear on a photographic reproduction of any page containing a part of the short form instrument.

(2) Notwithstanding any law to the contrary, a county clerk is not liable for refusing to record matter the county clerk is prohibited by this section from recording. [1969 c.583 §4; 2012 c.6 §5]

93.802 Recordation of short form instrument. (1) After a master form instrument is recorded in a county under ORS 93.779 to 93.802, an instrument entitled "Short Form Mortgage," "Short Form Trust Deed" or "Short Form Instrument Creating Affordable Housing Covenants" may be recorded.

(2) The short form instrument must contain the title of the short form instrument, the names of all parties involved in the encumbrance of the real property described in the short form instrument, the legal description of the property that is encumbered by the short form instrument, the amount of the encumbrance, the date on which the short form instrument was executed and any other information required by law for recording the short form instrument.

(3) Any provision of the master form instrument recorded under ORS 93.779 to 93.802 may be incorporated in the short form instrument by reference to:

(a) The date when and the book and page or fee number where the master form instrument was recorded; and

(b) Any specific provision of the master form instrument that applies to the short form instrument.

(4) A short form instrument recorded under this section must describe provisions in the short form instrument that deviate in any respect from the provisions of the recorded master form instrument.

(5) The person presenting a short form instrument for recording shall cause a complete copy of the master form instrument to which reference is made in the short form instrument to be provided or disclosed to each party involved in the encumbrance of the real property described in the short form instrument. [1991 c.230 §20; 2012 c.6 §6]

93.804 Requirement for original signatures for recording; recordation of certified copies; recordation of electronic image of instrument. (1) Except as provided in subsections (2) and (3) of this section, if an instrument presented for recording conveys an interest in real property and is required by law to be acknowledged or proved, a county clerk may not record the instrument unless the instrument contains the original signatures of the persons executing the instrument and the original signature of the officer before whom the acknowledgment was made.

(2) A county clerk may record a certified copy of an instrument that conveys an interest in real property if a law authorizes recording a certified copy of the instrument and the instrument contains the original certification of the certifying officer.

(3) If an instrument that is eligible to be recorded under the laws of this state is presented for recording as an electronic image or by electronic means, a county clerk may record the instrument. If the county clerk records the instrument, the county clerk shall require the person that presents the instrument for recording to certify that the instrument contains the original signatures required under subsection (1) of this section or that the instrument from which the person made the electronic image contains the original signatures required under subsection (1) of this section.

(4) A county clerk may enter into a contract to receive instruments as electronic images or by electronic means with a contractor that presents the instruments for recording on behalf of another person. The contractor or the other person shall certify by electronic means or otherwise that the instrument that the contractor presents for recording, or the instrument from which the electronic image was made, contains the original signatures required under subsection (1) of this section. [1991 c.230 §21; 2011 c.386 §1]

93.806 Recordation of instrument creating certain liens. (1) Any instrument creating a lien on unpaid rents and profits of real property within this state, by assignment, mortgage, pledge or otherwise, or memorandum thereof, which is executed by the person from whom the lien is intended to be given, 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 mortgages of real property in the county where such real property is located, as provided in ORS 93.710. Such recordation constitutes notice to third persons, and shall otherwise have the same effect as recordation pursuant to ORS 93.710, specifically, but without limitation, such lien shall not be voidable by and shall not be subordinate to the rights of either:

(a) A subsequent lien creditor, as defined in ORS 79.0102; or

(b) A subsequent bona fide purchaser of real property.

(2) Such an assignment, mortgage or pledge shall be so perfected by such recording, without the holder thereof obtaining the appointment of receiver, taking possession of the subject real property, filing a financing statement pursuant to ORS chapter 79 or taking any other action in addition to such recording.

(3) As used in this section, "memorandum" has the meaning provided in ORS 93.710 (3). [1991 c.299 §1; 2001 c.445 §166]

Note: 93.806 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 93 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

93.808 Approval of governmental unit required to record certain instruments. An instrument conveying title or interest to the State of Oregon or to a county, city or other political subdivision in this state may not be recorded unless the instrument carries an indication of approval of the conveyance by this state or the political subdivision accepting title or interest. [1999 c.654 §2]

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 the State Land Board before 1885 where the original deed was lost.

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

(4) Foreign instruments executed before 1903.

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

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

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

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

(9) Defective acknowledgments.

(10) Title to lands from or through aliens.

(11) An instrument that is presented for recording as an electronic image or by electronic means and that is recorded before June 16, 2011. [Amended by 1973 c.823 §96; 2003 c.14 §36; 2003 c.576 §355; 2011 c.386 §2]

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 ORS 93.850 (2)(c), here insert such exceptions.)

(Following statement of exceptions, here insert statement required under ORS 93.040 (1).)

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

Dated this _____ day of _____, 2_____.

(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, the heirs, successors and assigns of the grantor, 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 the successors in title of the grantee 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 the grantor 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 the covenants of the grantor, such exclusions must be expressly set forth on the deed. [1973 c.194 §1; 1999 c.214 §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 ORS 93.855 (2), here insert such exceptions.)

(Following statement of exceptions, here insert statement required under ORS 93.040 (1).)

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

Dated this _____ day of _____, 2_____.

(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 the covenants of the grantor, such exclusions must be expressly set forth on the deed. [1973 c.194 §2; 1999 c.214 §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.)

(Following description of property, here insert statement required under ORS 93.040 (1).)

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

Dated this _____ day of _____, 2_____.

(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, the heirs, successors and assigns of the grantor, 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 the successors of the grantee. [1973 c.194 §3; 1999 c.214 §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.)

(Following description of property, here insert statement required under ORS 93.040 (1).)

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

Dated this _____ day of _____, 2_____.

(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 receipt of title by or through such a deed, be denied the status of a good faith purchaser for value. [1973 c.194 §4; 1999 c.214 §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]

FORFEITURE UNDER LAND SALES CONTRACT

93.905 Definitions for ORS 93.905 to 93.940. As used in ORS 93.905 to 93.940, unless the context requires otherwise:

(1) "Contract for transfer or conveyance of an interest in real property" shall not include earnest money or preliminary sales agreements, options or rights of first refusal.

(2) "Forfeiture remedy" means the non-judicial remedy whereby the seller cancels the contract for default, declares the purchaser's rights under the contract to be forfeited, extinguishes the debt and retains sums previously paid thereunder by the buyer.

(3) "Purchase price" means the total price for the interest in the real property as stated in the contract, including but not limited to down payment, other property or value given or promised for which a dollar value is stated in the contract and the balance of the purchase price payable in installments, not including interest. If the contract provides for the conveyance of an interest in more than one parcel of property, the purchase price shall include only the portion of the price attributable to the remaining, unconveyed interest in real property, if the value thereof is separately stated or can be determined from the terms of the contract.

(4) "Purchaser" means any person who by voluntary transfer acquires a contractual interest in real property, any successor in interest to all or any part of the purchaser's contract rights of whom the seller has actual or constructive notice, and any person having a subordinate lien or encumbrance of record, including, but not limited to, a mortgagee, a beneficiary under a trust deed and a purchaser under a subordinate contract for transfer or conveyance of an interest in real property.

(5) "Seller" means any person who transfers or conveys an interest in real property, or any successor in interest of the seller.

(6) "Unpaid balance" means the sum of the unpaid principal balance, accrued unpaid interest and any sums actually paid by the seller on behalf of the purchaser for items required to be paid by the purchaser, including amounts paid for delinquent taxes, assessments or liens, or to obtain or reinstate required insurance. [1985 c.718 §1]

93.910 Enforcement of forfeiture remedy after notice of default. Whenever a contract for transfer or conveyance of an interest in real property provides a forfeiture remedy, whether the remedy is self-executing or is optional, forfeiture of the interest of a purchaser in default under the contract may be enforced only after notice of the default has been given to the purchaser as provided in ORS 93.915, notwithstanding any provision in the contract to the contrary. [1985 c.718 §2]

93.913 Forfeiture allowed for default under certain collateral assignments of interest. In the event of a default under a collateral assignment of the interest of a seller or purchaser in a land sale contract, including a collateral assignment of the proceeds thereof, the assignee may enforce a remedy of forfeiture, as set forth in ORS 93.905 to 93.945, unless the agreement between the parties otherwise prohibits such remedy. [1989 c.516 §3]

Note: 93.913 and 93.918 were added to and made a part of ORS chapter 93 by legislative action but were not added to any series therein. See Preface to Oregon Revised Statutes for further explanation.

93.915 Notice of default; contents; recordation; time of forfeiture; interim measures. (1) In the event of a default under a contract for conveyance of real property, a seller who wishes to enforce a forfeiture remedy must give written notice of default by service pursuant to ORCP 7 D(2) and 7 D(3), or by both first class and certified mail with return receipt requested, to the last-known address of the following persons or their legal representatives, if any:

(a) The purchaser.

(b) An occupant of the property.

(c) Any person who has caused to be filed for record in the county clerk's office of a county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of any notice of default served upon or mailed to the purchaser. The request shall contain the name and address of the person requesting copies of the notice and shall identify the contract by stating the names of the parties to the contract, the date of recordation of the contract and the book and page where the contract is recorded. The county clerk shall immediately make a cross-reference of the request to the contract, either on the margin of the page where the contract is recorded or in some other suitable place. No request, statement or notation placed on the record pursuant to this section shall affect title to the property or be deemed notice to any person that any person so recording the request has any right, title, interest in, lien or charge upon the property referred to in the contract.

(2) Notices served by mail are effective when mailed.

(3) The notice shall specify the nature of the default, the amount of the default if the default is in the payment terms, the date after which the contract will be forfeited if the purchaser does not cure the default and the name and address of the seller or the attorney for the seller. The period specified in the notice after which the contract will be forfeited may not be less than:

(a) Sixty days, when the purchaser has reduced the unpaid balance to an amount greater than 75 percent of the purchase price;

(b) Ninety days, when the purchaser has reduced the unpaid balance to an amount which is more than 50 percent but less than 75 percent of the purchase price; or

(c) One hundred twenty days, when the purchaser has reduced the unpaid balance to an amount which is 50 percent or less of the purchase price.

(4) The seller shall cause to be recorded in the real property records of each county in which any part of the property is located a copy of the notice, together with an affidavit of service or mailing of the notice of default, reciting the date the notice was served or mailed and the name and address of each person to whom it was given. From the date of recording, the notice and affidavit shall constitute constructive notice to third persons of the pending forfeiture. If, not later than one year after the time for cure stated in a recorded notice and affidavit or any recorded extension thereof, no declaration of forfeiture based upon the recorded notice and affidavit has been recorded and no extension of time for cure executed by the seller has been recorded, the notice and affidavit shall not be effective for any purpose nor shall it impart any constructive or other notice to third persons acquiring an interest in the purchaser's interest in the contract or the property or any portion of either. Any extension of time for cure executed by the seller shall be recorded in the same manner as the original notice and affidavit.

(5) The statement contained in the notice as to the time after which the contract will be forfeited if the default is not cured shall conclusively be presumed to be correct, and the notice adequate, unless one or more recipients of such notice notifies the seller or the attorney for the seller, by registered or certified mail, that such recipient claims the right to a longer period of time in which to cure the default.

(6) Subject to the procedural requirements of the Oregon Rules of Civil Procedure, an action may be instituted to appoint

a receiver or to obtain a temporary restraining order during forfeiture under a land sale contract, except that a receiver shall not be appointed with respect to a single-family residence which is occupied at the time the notice of default is given, as the principal residence of the purchaser, the purchaser's spouse or the purchaser's minor dependent children. [1985 c.718 §3; 1987 c.717 §1; 1991 c.12 §1]

93.918 Continuation of proceedings after certain types of stay ordered by court; procedures. (1) Except when a seller has participated in obtaining a stay, contract forfeiture proceedings that are stayed by order of the court, by proceedings in bankruptcy or for any other lawful reason, shall continue after release from the stay as if uninterrupted, if within 30 days after release the seller gives written amended notice of default by certified mail with return receipt requested, to the last-known address of those persons listed in ORS 93.915 (1). The amended notice of default shall:

(a) Be given at least 20 days prior to the amended date of forfeiture;

(b) Specify an amended date after which the contract will be forfeited, which may be the same as the original forfeiture date;

(c) Conform to the requirements of ORS 93.915 (3), except the time periods set forth therein; and

(d) State that the original forfeiture proceedings were stayed and the date the stay terminated.

(2) The new date of forfeiture shall not be sooner than the date of forfeiture as set forth in the seller's notice of default which was subject to the stay.

(3) Prior to the date of forfeiture, the seller shall cause to be recorded in the real property records of each county in which any part of the property is located, a copy of the amended notice of default, together with an affidavit of service or mailing of the amended notice of default, reciting the date the amended notice of default was served or mailed and the name and address of each person to whom it was given. From the date of its recording, the amended notice of default shall be subject to the provisions of ORS 93.915 (4) and (5). [1989 c.516 §4]

Note: See note under 93.913.

93.920 Curing default to avoid forfeiture; payment of costs and expenses. A purchaser in default may avoid a forfeiture under the contract by curing the default or defaults before expiration of the notice period provided in ORS 93.915. If the default consists of a failure to pay sums when due under the contract, the default may be cured by paying the entire amount due, other than sums that would not then be due had no de-

fault occurred, at the time of cure under the terms of the contract. Any other default under the contract may be cured by tendering the performance required under the contract. In addition to paying the sums or tendering the performance necessary to cure the default, the person effecting the cure of the default shall pay all costs and expenses actually incurred in enforcing the contract, including, but not limited to, late charges, attorney fees not to exceed \$350 and costs of title search. [1985 c.718 §4; 1987 c.717 §2]

93.925 Failure to cure default; exclusiveness of notice. Notwithstanding a seller's waiver of prior defaults, if notice is given and purchaser does not cure the default within the period specified in ORS 93.915, the contract forfeiture remedy may be exercised and the contract shall not be reinstated by any subsequent offer or tender of performance. The notice required in ORS 93.915 shall be in lieu of any notice that may be required under the terms of the contract itself, except where greater notice or notice to persons other than those described in ORS 93.915 is required by the terms of the contract, in which case notice shall be given for such longer period of time and to such additional persons as required by the contract. [1985 c.718 §5]

93.930 Recording affidavit after forfeiture; affidavit as evidence. (1) When a contract for conveyance of real property has been forfeited in accordance with its terms after the seller has given notice to the purchaser as provided in ORS 93.915, the seller shall record an affidavit with the property description, a copy of the notice of default and proof of mailing attached, setting forth that the default of the purchaser under the terms of the contract was not cured within the time period provided in ORS 93.915 and that the contract has been forfeited. When the affidavit is recorded in the deed records of the county where the property described therein is located, the recitals contained in the affidavit shall be *prima facie* evidence in any court of the truth of the matters set forth therein, but the recitals shall be conclusive in favor of a purchaser for value in good faith relying upon them.

(2) Except as otherwise provided in ORS 93.905 to 93.945 and except to the extent otherwise provided in the contract or other agreement with the seller, forfeiture of a contract under ORS 93.905 to 93.930 shall have the following effects:

(a) The purchaser and all persons claiming through the purchaser who were given the required notices pursuant to ORS 93.915, shall have no further rights in the contract or the property and no person shall have any right, by statute or otherwise, to redeem the

property. The failure to give notice to any of these persons shall not affect the validity of the forfeiture as to persons so notified;

(b) All sums previously paid under the contract by or on behalf of the purchaser shall belong to and be retained by the seller or other person to whom paid; and

(c) All of the rights of the purchaser to all improvements made to the property at the time the declaration of forfeiture is recorded shall be forfeited to the seller and the seller shall be entitled to possession of the property on the 10th day after the declaration of forfeiture is recorded. Any persons remaining in possession after that day under any interest, except one prior to the contract, shall be deemed to be tenants at sufferance. Such persons may be removed from possession by following the procedures set out in ORS 105.105 to 105.168 or other applicable judicial procedures.

(3) After the declaration of forfeiture is recorded, the seller shall have no claim against the purchaser and the purchaser shall not be liable to the seller for any portion of the purchase price unpaid or for any other breach of the purchaser's obligations under the contract. [1985 c.718 §6; 1987 c.717 §3]

93.935 Effect of purchaser's abandonment or reconveyance on interest, lien or claim. (1) In the event of a default under a contract for conveyance of real property, the recorded interest, lien or claim of a person with respect to the real property, by virtue of an assignment, conveyance, contract, mortgage, trust deed or other lien or claim from or through a purchaser, shall not be affected by the purchaser's abandonment or reconveyance to the seller unless the person is given notice in the manner specified in ORS 93.915.

(2) The notice shall specify the nature of the default, the amount of the default if the default is in the payment terms, the date after which the purchaser's interest in the real property will be abandoned or reconveyed to the seller and the name and address of the seller or the attorney for the seller. The period specified in the notice after which the purchaser's interest will be abandoned or reconveyed to the seller may not be less than:

(a) Sixty days, when the purchaser has reduced the unpaid balance to an amount greater than 75 percent of the purchase price;

(b) Ninety days, when the purchaser has reduced the unpaid balance to an amount which is more than 50 percent but less than 75 percent of the purchase price; or

(c) One hundred twenty days, when the purchaser has reduced the unpaid balance to

an amount which is 50 percent or less of the purchase price.

(3) If the person having an interest, lien or claim with respect to the real property, by virtue of an assignment, conveyance, contract, mortgage, trust deed or other lien or claim from or through a purchaser whose interest arises under a contract for conveyance of real property, cures the default as provided in ORS 93.920 then such person's interest, lien or claim with respect to the real property shall not be affected by the purchaser's abandonment or reconveyance to the seller. [1985 c.718 §7; 1987 c.225 §3]

93.940 Effect of seller's foreclosure or other action on interest, lien or claim. The recorded interest, lien or claim of a person with respect to the real property, by virtue of an assignment, conveyance, contract, mortgage, trust deed or other lien or claim from or through a purchaser whose interest arises under a contract for conveyance of real property, shall be not affected by the seller's foreclosure or other action on the contract unless such person is made a party to the action brought by the seller to enforce or foreclose the contract. In such action, such person shall be entitled to the same rights and opportunities to cure the purchaser's default or satisfy the purchaser's obligations as are granted the purchaser. [1985 c.718 §§8; 1987 c.225 §4]

93.945 Application of ORS 93.910 to 93.940. (1) The provisions of ORS 93.910 to 93.930 shall apply only to forfeiture remedies enforced after July 13, 1985. The date that the initial written notice of a default is given to the purchaser shall be the date of enforcement of the forfeiture remedy.

(2) The provisions of ORS 93.935 and 93.940 shall apply to all contracts for transfer or conveyance of an interest in real property, whether executed on, before or after July 13, 1985. [1985 c.718 §§9,10]

UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT

93.948 URPTDA 1. Short title. ORS 93.948 to 93.979 may be cited as the Uniform Real Property Transfer on Death Act. [2011 c.212 §1]

Note: 93.948 to 93.985 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 93 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

93.949 URPTDA 2. Definitions. As used in ORS 93.948 to 93.979:

(1) "Beneficiary" means a person that receives property under a transfer on death deed.

(2) "Designated beneficiary" means a person designated to receive property in a transfer on death deed.

(3) "Joint owner" means a joint tenant, a tenant by the entirety and any other co-owner of property that is held in a manner that entitles one or more of the owners to ownership of the whole of the property upon the death of one or more of the other owners.

(4) "Person" means an individual, corporation, business trust, personal representative, trustee, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

(5) "Property" means an interest in real property located in this state.

(6) "Transfer on death deed" means a deed that conveys property to a designated beneficiary at the transferor's death.

(7) "Transferor" means an individual who makes a transfer on death deed. [2011 c.212 §2]

Note: See note under 93.948.

93.950 URPTDA 3. Applicability. ORS 93.948 to 93.979 apply to a transfer on death deed made before, on or after January 1, 2012, by a transferor dying on or after January 1, 2012. [2011 c.212 §3]

Note: See note under 93.948.

93.951 URPTDA 4. Nonexclusivity. ORS 93.948 to 93.979 do not affect any method of transferring property otherwise permitted by the law of this state. [2011 c.212 §4]

Note: See note under 93.948.

93.953 URPTDA 5. Authority for transfer on death deed. (1) An individual may transfer property to one or more designated beneficiaries effective at the transferor's death by a transfer on death deed.

(2) The individual may designate one or more:

(a) Primary beneficiaries; and

(b) Alternate beneficiaries who take the property only if none of the primary beneficiaries is qualified or survives the transferor. [2011 c.212 §5]

Note: See note under 93.948.

93.955 URPTDA 6. Revocability of transfer on death deed. A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision. [2011 c.212 §6]

Note: See note under 93.948.

93.957 URPTDA 7. Nontestamentary nature of transfer on death deed. A transfer on death deed is nontestamentary. [2011 c.212 §7]

Note: See note under 93.948.

93.959 URPTDA 8. Capacity of transferor; fraud, duress or undue influence.

(1) The capacity required to make or revoke a transfer on death deed is the same as the capacity required to make a will.

(2) A transfer on death deed or an instrument revoking a transfer on death deed that is procured by fraud, duress or undue influence is void.

(3) A proceeding must be commenced not later than 18 months after the transferor's death to:

(a) Contest the capacity of the transferor; or

(b) Determine whether a transfer on death deed or an instrument revoking a transfer on death deed is void because it was procured by fraud, duress or undue influence. [2011 c.212 §8]

Note: See note under 93.948.

93.961 URPTDA 9. Requirements. (1) A transfer on death deed:

(a) Except as provided otherwise in paragraph (b) of this subsection, must contain the essential elements and formalities of a properly recordable inter vivos deed;

(b) Must state that the transfer to the designated beneficiary is to occur at the transferor's death;

(c) Must identify the designated beneficiary by name; and

(d) Must be recorded before the transferor's death in the deed records in the office of the county clerk for the county in which the property is located.

(2) A beneficiary designation that identifies beneficiaries only as members of a class is void. [2011 c.212 §9]

Note: See note under 93.948.

93.963 URPTDA 10. Notice; delivery; acceptance; consideration. A transfer on death deed is effective without:

(1) Notice or delivery to, or acceptance by, the designated beneficiary during the transferor's life; or

(2) Consideration. [2011 c.212 §10]

Note: See note under 93.948.

93.965 URPTDA 11. Revocation by instrument; revocation by act. (1) An instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument:

(a) Is acknowledged by the transferor after the transferor acknowledges the deed to be revoked;

(b) Is recorded before the transferor's death in the deed records of the county in which the property is located; and

(c) Is one of the following:

(A) A transfer on death deed that revokes the deed, or part of the deed, expressly or by inconsistency;

(B) An instrument of revocation that expressly revokes the deed, or part of the deed; or

(C) An inter vivos deed that transfers an interest in property that is the subject of a transfer on death deed to the extent of the interest in property transferred by the inter vivos deed.

(2) If authority is expressly granted by the transfer on death deed, a designated agent of the transferor may revoke the transfer on death deed as provided in this section.

(3) If a transfer on death deed is made by more than one transferor, revocation by one transferor does not affect the transfer of another transferor's interest in property by the transfer on death deed.

(4) After a transfer on death deed is recorded, the deed may not be revoked by a revocatory act on the deed.

(5) This section does not limit the effect of an inter vivos transfer of the property. [2011 c.212 §11]

Note: See note under 93.948.

93.967 URPTDA 12. Effect of transfer on death deed during transferor's life. During a transferor's life, a transfer on death deed does not:

(1) Affect an interest or right of the transferor or any other owner, including the right to transfer or encumber the property;

(2) Affect an interest or right of a designated beneficiary, even if the designated beneficiary has actual or constructive notice of the deed;

(3) Affect an interest or right of a secured, unsecured or future creditor of the transferor even if the creditor has actual or constructive notice of the deed;

(4) Affect the eligibility of the transferor or a designated beneficiary for any form of public assistance or medical assistance, as defined in ORS 414.025;

(5) Create a legal or equitable interest in favor of the designated beneficiary; or

(6) Subject the property to claims or process of a secured, unsecured or future creditor of the designated beneficiary. [2011 c.212 §12; 2013 c.688 §9]

Note: See note under 93.948.

93.969 URPTDA 13. Effect of transfer on death deed at transferor's death. (1) Except as provided otherwise in the transfer on death deed and subject to ORS 107.115, 112.455 to 112.555 or 112.570 to 112.590 and ORS 93.981, 93.983 and 93.985, when a transferor dies, the following rules apply to property that is subject to a transfer on death deed and owned by the transferor at death:

(a) A designated beneficiary's interest in the property:

(A) Is transferred to the designated beneficiary in accordance with the deed if the designated beneficiary survives the transferor; or

(B) Lapses if the designated beneficiary does not survive the transferor.

(b) If the transferor has identified multiple designated beneficiaries to receive concurrent interests in the property:

(A) Concurrent interests are transferred to the designated beneficiaries in equal and undivided shares with no right of survivorship; and

(B) The share of a designated beneficiary that lapses or fails for any reason is transferred to the remaining designated beneficiaries in proportion to the interest of each designated beneficiary in the remaining part of the property held concurrently.

(2) A beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens and other interests to which the property is subject at the transferor's death, including a claim or lien by a state authorized to seek reimbursement for public assistance or medical assistance, as defined in ORS 414.025, if assets of the transferor's probate estate are insufficient to pay the amount of the claim or lien.

(3) If a transferor is a joint owner and is:

(a) Survived by one or more joint owners, the property subject to a transfer on death deed belongs to the surviving joint owners with a right of survivorship.

(b) The last surviving joint owner, the transfer on death deed is effective.

(4) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision. [2011 c.212 §13; 2013 c.688 §10]

Note: See note under 93.948.

93.971 URPTDA 14. Disclaimer. A beneficiary may disclaim all or part of the beneficiary's interest as provided by ORS 105.623 to 105.649. [2011 c.212 §14]

Note: See note under 93.948.

93.973 URPTDA 15. Liability for creditor claims and statutory allowances. (1)

A transferor's estate may enforce a liability against property transferred at the death of the transferor by a transfer on death deed to the extent that the probate estate of the transferor is insufficient to satisfy:

(a) A claim allowed or established by summary determination or separate action under ORS 114.505 to 114.560 or under ORS chapter 115 against the probate estate; or

(b) A statutory allowance to a surviving spouse or child under ORS 114.015.

(2) If the same transferor transfers multiple properties by one or more transfer on death deeds, the liability under this section is apportioned among the transferred properties in proportion to the net value of each transferred property at the transferor's death.

(3) A proceeding must be commenced not later than 18 months after the transferor's death to enforce the liability under this section. [2011 c.212 §15]

Note: See note under 93.948.

93.975 URPTDA 16. Form of transfer on death deed. ORS 93.948 to 93.979 govern the effect of an instrument used to create a transfer on death deed. The following form may be used to create a transfer on death deed:

TRANSFER ON DEATH DEED (ORS 93.948 to 93.979)

NOTICE TO OWNER

You should carefully read all information on this form. You may want to consult a lawyer before using this form.

This form must be recorded before your death or it will not be effective.

TAX STATEMENT

Until a change is requested, the county clerk shall send tax statements to the following address: _____

IDENTIFYING INFORMATION

Owner or Owners Making This Deed:

Printed name: _____

Mailing address: _____

Printed name: _____

Mailing address: _____

Legal description of the property:

(Seal, if any)

PRIMARY BENEFICIARY

I designate the following beneficiary if the beneficiary survives me:

Printed name: _____

Mailing address, if available: _____

ALTERNATE BENEFICIARY

(Optional)

If my primary beneficiary does not survive me, I designate the following alternate beneficiary if that beneficiary survives me:

Printed name: _____

Mailing address, if available: _____

TRANSFER ON DEATH

At my death, I transfer my interest in the described property to the beneficiaries as designated above.

Before my death, I have the right to revoke this deed.

SPECIAL TERMS

(Optional)

RETURN OF DEED

After recording, the county clerk shall return the deed to: _____

SIGNATURE OF OWNER OR OWNERS
MAKING THIS DEED

Signature: _____
Date: _____

Signature: _____
Date: _____

State of _____

County of _____

This instrument was acknowledged before me on _____ (date) by _____.
(name(s) of person(s))

(Signature of notarial officer)

Title (and Rank)

My commission expires: _____

[2011 c.212 §16]

Note: See note under 93.948.

93.977 URPTDA 17. Form of instrument revoking transfer on death deed. ORS 93.948 to 93.979 govern the effect of an instrument used to revoke a transfer on death deed. The following form may be used to create an instrument revoking a transfer on death deed:

INSTRUMENT REVOKING
TRANSFER ON DEATH DEED

NOTICE TO OWNER

This instrument revoking a transfer on death deed must be recorded before you die or it will not be effective. This instrument is effective only as to the interests in the property of the owner who signs this instrument.

IDENTIFYING INFORMATION

Owner or Owners of Property Making This Instrument of Revocation:

Printed name: _____

Mailing address: _____

Printed name: _____

Mailing address: _____

Legal description of the property:

REVOCATION

I hereby revoke all my previous transfers of this property by transfer on death deed.

RETURN OF INSTRUMENT

After recording, the county clerk shall return the instrument to: _____

SIGNATURE OF OWNER OR OWNERS
MAKING THIS DEED

Signature: _____
Date: _____

Signature: _____
Date: _____

State of _____

County of _____

This instrument was acknowledged before me on _____ (date) by _____ (name(s) of person(s))

(Signature of notarial officer)

(Seal, if any)

Title (and Rank)

My commission expires: _____

[2011 c.212 §17]

Note: See note under 93.948.

93.979 Relation to Electronic Signatures in Global and National Commerce Act. ORS 93.948 to 93.979 modify, limit and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, et seq., but do not modify, limit or supersede 15 U.S.C. 7001(c), or authorize electronic delivery of a notice described in 15 U.S.C. 7003(b). [2011 c.212 §18]

Note: See note under 93.948.

93.981 Effect of divorce or annulment on transfer on death deed. Unless a transfer on death deed provided for under ORS 93.948 to 93.979 evidences a different intent of the transferor, the divorce or annulment of the marriage of the transferor after the recording of the transfer on death deed revokes all provisions in the transfer on death deed in favor of the former spouse of the transferor and the effect of the transfer on death deed is the same as though the former spouse did not survive the transferor. [2011 c.212 §19]

Note: See note under 93.948.

93.983 Transfer to parent who deserted or neglected transferor. (1) Property that would pass by transfer on death deed under ORS 93.948 to 93.979 from a deceased transferor to a parent of the deceased transferor shall pass and be vested as if the parent had predeceased the transferor if the transferor was an adult when the transferor died and:

(a) The parent of the transferor willfully deserted the transferor for the 10-year period immediately preceding the date on which the transferor became an adult; or

(b) The parent neglected without just and sufficient cause to provide proper care and maintenance for the transferor for the 10-year period immediately preceding the date on which the transferor became an adult.

(2) Property that would pass by transfer on death deed under ORS 93.948 to 93.979

from the deceased transferor to a parent of the deceased transferor shall pass and be vested as if the parent had predeceased the transferor if the transferor was a minor when the transferor died and:

(a) The parent of the transferor willfully deserted the transferor for the life of the transferor or for the 10-year period immediately preceding the date on which the transferor died; or

(b) The parent neglected without just and sufficient cause to provide proper care and maintenance for the transferor for the life of the transferor or for the 10-year period immediately preceding the date on which the transferor died.

(3) For the purposes of subsections (1) and (2) of this section, the court may disregard incidental visitations, communications and contributions in determining whether a parent willfully deserted the deceased transferor or neglected without just and sufficient cause to provide proper care and maintenance for the transferor.

(4) For the purposes of subsections (1) and (2) of this section, in determining whether the parent willfully deserted the deceased transferor or neglected without just and sufficient cause to provide proper care and maintenance for the deceased transferor, the court may consider whether a custodial parent or other custodian attempted, without good cause, to prevent or to impede contact between the transferor and the parent whose transfer would be forfeited under this section.

(5) The transfer of property, as defined in ORS 93.949, to a parent of a deceased transferor may be forfeited under this section only pursuant to an order of the court entered after the filing of a petition under ORS 93.985. A petition filed under ORS 113.035 may not request the forfeiture of a transfer by a transfer on death deed of a parent of a deceased transferor under this section. [2011 c.212 §20]

Note: See note under 93.948.

93.985 Forfeiture of transfer by parent who deserted or neglected transferor. (1) A petition may be filed in probate proceedings to assert that the interest in property, as defined in ORS 93.949, transferred by a transfer on death deed to a parent of a deceased transferor is subject to forfeiture under ORS 112.047. A petition may be filed under this section only by a person who would be benefited by a forfeiture of the parent's share.

(2) A petition under this section must be filed not later than:

(a) Four months after the date of delivery or mailing of the information described in

ORS 113.145 if that information was required to be delivered or mailed to the person on whose behalf the petition is filed; or

(b) Four months after the first publication of notice to interested persons if the person on whose behalf the petition is filed was not required to be named as an interested person in the petition for appointment of a personal representative.

(3) The petitioner has the burden of proving the facts alleged in a petition filed under this section by clear and convincing evidence. [2011 c.212 §21]

Note: See note under 93.948.

PENALTIES

93.990 Penalties. (1) The giving of a false statement of the true and actual consider-

ation as required by ORS 93.030 is a Class A violation.

(2) Any person served with the subpoena 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. The person may also be committed to prison as for a contempt by the officer who issued the subpoena until the person submits to answer on oath as aforesaid.

(3) Violation of ORS 93.635 is a Class D violation. [Subsection (1) enacted as 1967 c.462 §2; subsection (3) enacted as 1975 c.618 §4; 1977 c.724 §2; 1999 c.1051 §149]

PROPERTY RIGHTS AND TRANSACTIONS
