

CHAPTER 402

AN ACT

HB 2425

Relating to recording of documents; amending ORS 93.804 and 205.320.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 93.804 is amended to read: 93.804. (1) **As used in this section:**

(a) **“Instrument” includes an electronic record as defined in ORS 84.004.**

(b) **“Original certification” or “original signature” includes an electronic signature as defined in ORS 84.004.**

[(1)] (2) Except as provided in subsections [(2) and] (3) and (4) 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)] (3) 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)] (4) 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 **by electronic means or otherwise** that the instrument, **or the instrument from which the electronic image was made**, contains the original signatures required under subsection [(1)] (2) 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)] (5) 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)] (2) of this section.

SECTION 2. ORS 205.320 is amended to read:

205.320. (1) In every county there shall be charged and collected in advance by the county clerk, for the benefit of the county, the following fees, and no more, for the following purposes and services:

(a) For filing and making entry when required by law of any instrument required or permitted by law to be filed, when it is not recorded, \$5 for each page.

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

(c) For each official certificate, \$3.75.

(d)(A) For recording any instrument required or permitted by law to be recorded, \$5 for each page, but the minimum fee shall not be less than \$5. As used in this subparagraph, “page” means one side of a sheet 14 inches, or less, long and 8-1/2 inches, or less, wide.

(B) For supplying to private parties copies of records or files, **including by electronic delivery of images**, not more than \$3.75 for locating a record requested by the party and 25 cents for each page. As used in this subparagraph, “page” means one side of a sheet 14 inches, or less, long and 8-1/2 inches, or less, wide.

(C) For each official certificate, \$3.75.

(e) For taking an affidavit for and making and issuing a marriage license and registering the return of the license, or for taking an affidavit for and registering a Declaration of Domestic Partnership, \$25.

(f) For solemnizing a marriage under ORS 106.120, \$110. This paragraph does not require that the county clerk charge a fee for solemnizing a marriage after normal working hours or on Saturdays or legal holidays. This paragraph does not prohibit a county clerk from charging and accepting a personal payment for solemnizing a marriage if otherwise authorized by ORS 106.120.

(g) For taking and certifying acknowledgment or proof of execution of any instrument, the fee established in the schedule adopted by the Secretary of State under ORS 194.400.

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

(i) For any service the clerk may be required or authorized to perform and for which no fee is provided by law, such fees as may favorably compare with those established by this section for similar services and as may be established by order or rule of the county court or board of county commissioners.

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

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

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

(m) In addition to and not in lieu of the fees charged under paragraph (d) of this subsection, for each additional transaction described under ORS 205.236, \$5.

(n) In addition to and not in lieu of the fees charged under paragraph (d) of this subsection, for each additional lien recorded under ORS 311.675, \$5.

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

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

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

(2) Notwithstanding any other law, five percent of any fee or tax that is not collected for the benefit of the county clerk shall be deducted from the fee or tax. The moneys deducted shall be expended for acquiring storage and retrieval systems, payment of

expenses incurred in collecting the fee or tax and maintaining and restoring records as authorized by the county clerk. Moneys collected under this subsection shall be deposited in a county clerk records fund established by the county governing body. No moneys shall be deducted under this subsection from:

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

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

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

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

(e) Fees collected under ORS 205.323 (1)(c) for the housing-related programs listed in ORS 294.187 (2)(b).

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