

HOUSE AMENDMENTS TO HOUSE BILL 3119

By COMMITTEE ON JUDICIARY

April 19

1 In line 2 of the printed bill, delete “205.244” and insert “203.148, 205.125, 205.130, 205.244,
2 205.320 and 312.125”.

3 After line 3, insert:

4 “**SECTION 1.** ORS 205.130 is amended to read:

5 “205.130. (1) The county clerk shall:

6 “(a) **Record or cause to be recorded in a legible and permanent manner, and shall make**
7 **available for public inspection in the office of the county clerk, all instruments that are re-**
8 **quired or permitted by law to be recorded, without regard to whether the instrument con-**
9 **tains information in addition to the required information.**

10 “[1] (b) Have the custody of, and safely keep and preserve all files and records of deeds and
11 mortgages of real property, and a record of all maps, plats, contracts, powers of attorney and other
12 interests affecting the title to real property required or permitted by law to be recorded.

13 “[2] (c) Record[,] or cause to be recorded[,] in a legible and permanent manner, and [*keep*] **shall**
14 **make available for public inspection** in the office of the county clerk, all:

15 “[a] (A) Deeds and mortgages of real property, powers of attorney and contracts affecting the
16 title to real property, authorized by law to be recorded, assignments thereof and of any interest
17 therein when properly acknowledged or proved and other interests affecting the title to real prop-
18 erty required or permitted by law to be recorded;

19 “[b] (B) Certificates of sale of real property under execution or order of court, or assignments
20 thereof or of any interest therein when properly acknowledged or proved;

21 “[c] (C) Certified copies of death certificates of any person appearing in the county records
22 as owning or having a claim or interest in land in the county. A death certificate recorded in the
23 deed records of a county under this subsection is a public record and is not subject to the disclosure
24 limitations under ORS 432.121;

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

28 “[e] (E) Instruments recognized under state law or rule or federal law or regulation as affect-
29 ing title to or an interest in real property if the instrument is properly acknowledged or proved.

30 “[3] (d) Keep and maintain:

31 “[a] (A) Deed and mortgage records;

32 “[b] (B) Statutory lien records;

33 “[c] (C) A record called the County Clerk Lien Record in which the following shall be re-
34 corded:

35 “[A] (i) The warrants and orders of officers and agencies that are required or permitted by law

1 to be recorded; and

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

5 “[*d*] (D) Releases, satisfactions, assignments, amendments and modifications of recorded in-
6 struments; and

7 “[*e*] (E) Other instruments required or permitted by law to be recorded not affecting interests
8 in real property.

9 “[*4*] (e) Perform all the duties in regard to the recording and indexing of deeds and mortgages
10 of real property, contracts, abstracts of judgments, notices of pendency, powers of attorney and
11 other interests when required or permitted by law to be recorded that affect the title of real prop-
12 erty, and in regard to the entry of satisfaction and discharge of the same, together with other doc-
13 uments required or permitted by law to be recorded.

14 “[*5*] (2) [*Incur no*] **The county clerk does not incur** civil or criminal liability, either per-
15 sonally or in an official capacity, for recording an instrument that:

16 **“(a) Contains information in addition to the information required in order to be recorded.**

17 **“(b) Does not comply with the provisions of law that require or allow the recording of the in-
18 strument.”.**

19 In line 4, delete “1” and insert “2”.

20 In line 16, delete “shall” and insert “does”.

21 In lines 17 through 20, delete the boldfaced material.

22 Delete lines 21 and 22 and insert:

23 **“SECTION 3.** ORS 203.148 is amended to read:

24 “203.148. (1) The county governing body may establish by ordinance a fund to be known as the
25 Public Land Corner Preservation Fund. Moneys in the Public Land Corner Preservation Fund shall
26 be used only to pay expenses incurred and authorized by the county surveyor in the establishment,
27 reestablishment and maintenance of corners of government surveys under ORS 209.070 (5) and (6).

28 “(2) After providing public notice of its intended action and holding a public hearing at which
29 the residents of the county may appear and be heard on the issue of establishing or changing the
30 fee, the county governing body may establish by resolution or order a fee not to exceed \$10 for re-
31 cording all instruments under ORS 205.130 [*2*] (1)(c) in addition to any other fee charged by the
32 county clerk. All moneys collected under this subsection shall be deposited with the county treas-
33 urer at least once a month to be credited to the Public Land Corner Preservation Fund.

34 **“SECTION 4.** ORS 205.125 is amended to read:

35 “205.125. (1) The County Clerk Lien Record maintained under ORS 205.130 shall contain the
36 following information for each order or warrant recorded:

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

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

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

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

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

1 “(f) County Clerk Lien Record instruments filed under ORS 205.130 [(3)(c)(A)] (1)(d)(C)(i) shall
2 be on official letterhead and include the seals, if any, of the officers and agencies.

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

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

11 “(3) From the date that an order or warrant imposing a monetary obligation is recorded in the
12 County Clerk Lien Record, the order or warrant becomes a lien upon the title to and interest in
13 property of the person against whom it is issued in the same manner as a judgment that creates a
14 judgment lien under ORS chapter 18.

15 “(4) In addition to any other remedy provided by law, orders and warrants recorded in the
16 County Clerk Lien Record may be enforced as provided in ORS 205.126.

17 “**SECTION 5.** ORS 205.320 is amended to read:

18 “205.320. In every county there shall be charged and collected in advance by the county clerk,
19 for the benefit of the county, the following fees, and no more, for the following purposes and ser-
20 vices:

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

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

25 “(3) For each official certificate, \$3.75.

26 “(4)(a) For purposes of this subsection, ‘page’ means one side of a sheet 14 inches, or less, long
27 and 8-1/2 inches, or less, wide.

28 “(b) For recording any instrument required or permitted by law to be recorded, \$5 for each page,
29 but the minimum fee shall not be less than \$5.

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

32 “(d) For each official certificate, \$3.75.

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

35 “(6) For solemnizing a marriage under ORS 106.120, \$25. This subsection does not require that
36 the county clerk charge a fee for solemnizing a marriage after normal working hours or on Satur-
37 days or legal holidays. This subsection does not prohibit a county clerk from charging and accepting
38 a personal payment for solemnizing a marriage if otherwise authorized by ORS 106.120.

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

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

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

1 commissioners.

2 “(10) For recording any instrument under ORS 205.130 [(2)] (1)(c), as required by ordinance
3 pursuant to ORS 203.148.

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

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

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

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

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

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

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

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

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

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

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

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

29 “**SECTION 6.** ORS 312.125 is amended to read:

30 “312.125. (1) Not less than one year prior to the expiration of the period of redemption of any
31 real property ordered sold to the county under a judgment under ORS 312.100, the tax collector shall
32 provide notice of the expiration of the period of redemption to any person or entity entitled to re-
33 deem the property under ORS 312.120 (2) whose interest appears in the records of the county as of
34 the date foreclosure proceedings were instituted. Any person or entity whose interest has terminated
35 by any means other than a judgment of foreclosure under ORS 312.120 shall not be entitled to such
36 notice.

37 “(2) The notice shall contain:

38 “(a) The date of the judgment;

39 “(b) The date of expiration of the period of redemption;

40 “(c) Warning to the effect that the property ordered sold under the judgment, unless sooner re-
41 deemed, will be deeded to the county immediately on expiration of the period of redemption and that
42 every right or interest of any person in the property will be forfeited forever to the county;

43 “(d) A legal description of the property and a tax account number; and

44 “(e) The name of the owner as it appears on the latest tax roll.

45 “(3) The notice required to be given under subsections (1) and (2) of this section shall be given

1 by both certified mail and by regular first class mail and subsections (4) and (5) of this section shall
2 apply to both mailings.

3 “(4)(a) If the notice required under subsections (1) and (2) of this section is to be given to an
4 owner, the notice shall be addressed to the owner or owners, as reflected in the county records of
5 deeds, at the true and correct address of the owner as appearing on the instrument of conveyance
6 under ORS 93.260 or as furnished under ORS 311.555 or as otherwise ascertained by the tax collec-
7 tor pursuant to ORS 311.560.

8 “(b) If the person or entity to whom the notice is required under subsection (1) of this section
9 to be given is a lienholder, or person or entity other than the owner, having or appearing to have
10 a lien or other interest in the property, the notice shall be addressed to the lienholder, person or
11 entity at the address which the tax collector knows or after reasonable inquiry, has reason to be-
12 lieve to be the address at which the lienholder, person or entity will most likely receive actual no-
13 tice. For the convenience of the county, any lien, instrument or other document, memorandum or
14 writing, filed on or after September 27, 1987, that creates an interest with respect to which notice
15 is required to be given under this paragraph, shall contain:

16 “(A) The address of the person or entity holding lien or other interest created by the instrument
17 or other document, memorandum or writing; and

18 “(B) The tax account number, if any, and if known, of the property subject to the lien or in
19 which the interest is created.

20 “(5) Failure of a lien, instrument or other document, memorandum or other writing to contain
21 the address and tax account number information required under subsection (4)(b) of this section does
22 not invalidate the lien, instrument or other document, memorandum or writing, nor shall the failure
23 of the writing to contain the information relieve the tax collector of the duty to obtain and mail the
24 notice required under subsection (4)(b) of this section to the address that the tax collector believes
25 to be the address at which the lienholder, person or entity is most likely to receive actual notice.

26 “(6) For purposes of subsection (4)(b) of this section, if the lienholder is a corporation or a lim-
27 ited partnership, the tax collector shall be considered to have made reasonable inquiry if the notice
28 is mailed to the registered agent or last registered office of the corporation or limited partnership,
29 if any, as shown by the records on file in the office of the Corporation Commissioner, or if the
30 corporation or limited partnership is not authorized to transact business in this state, to the prin-
31 cipal office or place of business of the corporation or limited partnership.

32 “(7)(a) As used in this section, ‘records of the county’ means the following:

33 “(A) The grantor-grantee indexes.

34 “(B) Other records of deeds, mortgages, powers of attorney, contracts and other instruments,
35 documents or memorandum of conveyance or otherwise of real property that are described in ORS
36 205.130 [(1) and (2)] **(1)(b) and (c)**.

37 “(C) The County Clerk Lien Record described in ORS 205.130 [(3)] **(1)(d)**.

38 “(D) Records of federal tax liens and other liens, instruments or other documents or writings
39 reflecting an interest in real property described in ORS 205.246, if those records are kept separately
40 from the records described in paragraph (b) of this subsection.

41 “(E) Records of statutory liens on real property described in ORS 87.372.

42 “(F) Any other records of interests in real property required to be kept by the county clerk, if
43 the records contain a legal description of the property and an address specifically designated as
44 indicated on the instrument, document or other memorandum or writing for purposes of mailing the
45 notice required by this section.

1 “(b) For purposes of this section only, ‘records of the county’ includes:
2 “(A) The appropriate records of the courts described in ORS 7.010 in the custody of the clerk
3 of the appropriate court or court administrator under ORS 7.110; and
4 “(B) Probate records in the custody of the clerk of the appropriate court or court administrator
5 under ORS 7.230 and 7.240. Notwithstanding any provision to the contrary in ORS chapter 7 or other
6 law, the clerk of the appropriate court or the court administrator shall make available to and assist
7 the tax collector in the examination of the records described in this paragraph for purposes of car-
8 rying out the obligations of the tax collector under this section without charge.
9 “**SECTION 7. The amendments to ORS 203.148, 205.125, 205.130, 205.244, 205.320 and 312.125**
10 **by sections 1 to 6 of this 2007 Act apply to instruments filed or recorded before, on or after**
11 **the effective date of this 2007 Act.”.**
12 _____