

Enrolled
House Bill 2759

Sponsored by Representative ESQUIVEL

CHAPTER

AN ACT

Relating to recordation of instruments in county records; creating new provisions; and amending ORS 87.517, 87.539 and 205.246.

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

SECTION 1. ORS 205.246, as amended by section 3, chapter 48, Oregon Laws 2008, is amended to read:

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

- (a) Financing statements recorded in the office of the county clerk under ORS 79.0501 (1)(a);
- (b) Hospital and physician liens recorded under ORS 87.565;
- (c) Federal tax liens and certificates and notices affecting federal tax liens recorded under ORS 87.806;
- (d) Cooperative contracts recorded under ORS 62.360;
- (e) Special district assessments attaching to real property;
- (f) Lien foreclosure statements recorded under ORS 87.202;
- (g) A certified copy of the judgment or a lien record abstract or other liens affecting the title to real property;
- (h) Building code exemptions required under ORS 455.320 and 455.345;
- (i) Construction liens recorded under ORS 87.050;
- (j) Liens upon chattels recorded under ORS 87.246;
- (k) Liens on real property recorded under ORS 87.372;
- (L) Employee benefit plan liens recorded under ORS 87.860;
- (m) Attorney liens recorded under ORS 87.455 and 87.460;
- (n) Long term care liens recorded under ORS 87.517;
- (o) Ambulance services liens recorded under ORS 87.623;
- (p) Community property records recorded under ORS 108.530;
- (q) Sheriff transfer of records recorded under ORS 206.100;
- (r) Corrected instruments required under ORS 205.244;
- (s) Mineral and mining records required under ORS 517.030, 517.052, 517.160, 517.180, 517.210, 517.220, 517.280, 517.310 and 517.320;
- (t) Copies of records certified by a county clerk or court clerk;
- (u) Subdivision and partition plats recorded under ORS 92.140;
- (v) Condominiums recorded under ORS chapter 100;
- (w) Requests for notice of transfer or encumbrance or terminations of requests for notice of transfer or encumbrance presented for recordation under ORS 411.694;

- (x) Bankruptcy documents presented for recordation under ORS 93.770;
- (y) A written warranty agreement under ORS 701.605;
- (z) **An instrument, as described in section 3 of this 2009 Act, to correct errors in a recorded trust deed;** and

[(z)] **(aa)** An order or decision under section 8 (7), chapter 424, Oregon Laws 2007, that is final by operation of law or on appeal.

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

(3) Indexes may be maintained for instruments recorded under subsection (1) of this section in the same manner as provided in ORS 205.160.

SECTION 2. Section 3 of this 2009 Act is added to and made a part of ORS 86.705 to 86.795.

SECTION 3. (1) To correct an error concerning the status or effect of a recorded trust deed, a person may present an instrument to the county clerk for recording in the deed and mortgage records of the county, and the county clerk shall record the instrument if it otherwise meets the requirements for an instrument to be recorded under ORS chapter 205 and is in substantially the following form:

**CORRECTION OF ERROR(S)
IN THE DEED AND MORTGAGE RECORDS
RELATING TO A TRUST DEED
(ORS 86.705 to 86.795)**

This instrument is recorded to provide notice of an error relating to:

Original Deed of Trust

- County clerk instrument record #:**
- Grantor (name):**
- Trustee (name):**
- Beneficiary (name):**
- Assignee(s), if any (name(s)):**

The error to be corrected is (check one):

- Erroneous reconveyance of trust deed**
Date of recording:
County clerk instrument record #:
- Erroneous recording of Trustee's Deed**
Date of recording:
County clerk instrument record #:

The result of this error correction is (check one):

- The original trust deed is hereby reinstated; or**
- The Trustee's Deed is hereby set aside as though the erroneous instrument had not been recorded.**

Date _____
Name (printed) _____
Signature _____
(Beneficiary of original deed of trust)

STATE OF OREGON)

County of _____) ss.
)

The foregoing instrument was acknowledged before me this ____ day of _____, 2____, by _____.

Notary Public for Oregon
My commission expires: _____

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2____, by _____ and by _____ of _____, a corporation on behalf of the corporation.

Notary Public for Oregon
My commission expires: _____

(2) Reinstatement of a trust deed based on the correction of an error under this section does not affect the rights of a bona fide purchaser for value or of a bona fide purchaser for value holding a security interest in the real property if the purchaser acquired an interest after the erroneous trust deed reconveyance or trustee's deed was recorded and before the error was corrected.

SECTION 4. ORS 87.517 is amended to read:

87.517. The recording officer of the county shall record the notices filed under ORS 87.507 in the **statutory lien** record [of deeds and mortgages].

SECTION 5. ORS 87.539 is amended to read:

87.539. (1) When a long term care facility receives payment from an individual, an individual's estate, the State of Oregon or any other source for the care claimed in a notice of lien filed under ORS 87.507, the long term care facility shall file with the recording officer of the county in which the notice of lien was filed a certificate declaring that payment has been received and that the lien is discharged.

(2) Within 20 days after being notified that the individual is eligible for Medicaid, the long term care facility shall file with the recording officer of the county in which the notice of lien was filed a certificate releasing the claim of lien upon any property protected under ORS 87.533.

(3) The recording officer of the county shall record the certificate of discharge or release in the [appropriate] **statutory lien [docket] record.**

(4) If, after receiving payment for the care claimed in a notice of lien filed under ORS 87.507, a long term care facility fails to discharge the lien or release the claim of lien within 10 days, the long term care facility is liable to the individual or to the spouse or the estate of the individual for \$100 or the amount of actual damages, whichever amount is greater.

(5) In all actions brought under this section, the court may allow reasonable attorney fees at trial and on appeal to the prevailing party.

SECTION 6. The amendments to ORS 87.517 and 87.539 by sections 4 and 5 of this 2009 Act apply to liens under ORS 87.503 that the recording officer of a county records on or after the effective date of this 2009 Act and to discharges or releases of those liens.

Passed by House March 20, 2009

Repassed by House June 9, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 4, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State