

Senate Bill 27

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Resolves certain contradictory provisions applicable to duties of county clerk. Eliminates biannual duty of county to examine financial books and papers of county clerk, clerk of county court, treasurer and sheriff. Requires purchaser to record sheriff's certificate of execution sale in County Clerk Lien Record.

A BILL FOR AN ACT

1
2 Relating to county officers; amending ORS 18.942, 106.170, 205.130, 205.320 and 205.327; and repeal-
3 ing ORS 294.085.

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

5 **SECTION 1.** ORS 205.327 is amended to read:

6 205.327. When an instrument required or permitted by law to be recorded is presented to a
7 county clerk for recording, if the instrument does not comply with the requirements of ORS 205.232
8 [*and*] **or** 205.234, the county clerk shall record the instrument, but shall charge and collect in ad-
9 vance a penalty of \$20. The penalty authorized and collected under this section [*shall be*] **is** in ad-
10 dition to and not in lieu of the fees charged under ORS 205.320 for recording the instrument.

11 **SECTION 2. ORS 294.085 is repealed.**

12 **SECTION 3.** ORS 205.320 is amended to read:

13 205.320. In every county there shall be charged and collected in advance by the county clerk,
14 for the benefit of the county, the following fees, and no more, for the following purposes and ser-
15 vices:

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

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

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

21 (4)(a) For purposes of this subsection, "page" means one side of a sheet 14 inches, or less, long
22 and 8-1/2 inches, or less, wide.

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

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

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

28 (5) For taking an affidavit for and making and issuing a marriage license and registering the
29 return of the license, or for taking an affidavit for and registering a Declaration of Domestic Part-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 nership, \$25.

2 (6) For solemnizing a marriage under ORS 106.120, [~~\$25~~] **\$105**. This subsection does not require
 3 that the county clerk charge a fee for solemnizing a marriage after normal working hours or on
 4 Saturdays or legal holidays. This subsection does not prohibit a county clerk from charging and
 5 accepting a personal payment for solemnizing a marriage if otherwise authorized by ORS 106.120.

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

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

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

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

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

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

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

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

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

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

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

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

- 37 (a) Fees collected for the Domestic Violence Fund under ORS 106.045.
- 38 (b) Fees collected for conciliation services under ORS 107.615.
- 39 (c) Real estate transfer taxes enacted prior to January 1, 1998.
- 40 (d) Fees collected under ORS 205.323 for the Oregon Land Information System Fund.
- 41 (e) Fees collected under ORS 205.323 (1)(c) for the housing-related programs listed in ORS
 42 294.187 (2)(b).

43 **SECTION 4.** ORS 106.170 is amended to read:

44 106.170. A person solemnizing a marriage shall, within [*10 days after*] **five calendar days** of the
 45 marriage ceremony, complete the original application, license and record of marriage form and de-

1 liver the form to the county clerk who issued the marriage license. The person solemnizing the
 2 marriage may keep a copy of the application, license and record of marriage form.

3 **SECTION 5.** ORS 205.130 is amended to read:

4 205.130. The county clerk shall:

5 (1) Have the custody of, and safely keep and preserve, all files and records of deeds and mort-
 6 gages of real property[,] and a record of all maps, plats, contracts, powers of attorney and other
 7 interests affecting the title to real property required or permitted by law to be recorded.

8 (2) Record, or cause to be recorded, in a legible and permanent manner, and keep in the office
 9 of the county clerk, all:

10 (a) Deeds and mortgages of real property, powers of attorney and contracts affecting the title
 11 to real property, authorized by law to be recorded, assignments thereof and of any interest therein
 12 when properly acknowledged or proved and other interests affecting the title to real property re-
 13 quired or permitted by law to be recorded;

14 (b) Certificates of sale of real property under execution or order of court, or assignments
 15 [thereof] **of previously recorded certificates** or of any interest [therein] **in real property**, when
 16 properly acknowledged or proved;

17 (c) Certified copies of death records of any person appearing in the county records as owning
 18 or having a claim or interest in land in the county. A certified copy of a death record recorded in
 19 the deed records of a county under this subsection is a public record and is not subject to the dis-
 20 closure limitations under ORS 432.350;

21 (d) Instruments presented for recording by the United States or the State of Oregon, or a poli-
 22 tical subdivision of either, that affect title to or an interest in real property or that lawfully concern
 23 real property;

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

26 (f) Orders from a county forestland-urban interface classification committee filed under ORS
 27 477.052.

28 (3) Keep and maintain:

29 (a) Deed and mortgage records;

30 (b) Statutory lien records;

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

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

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

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

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

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

1 (5) Incur no civil or criminal liability, either personally or in an official capacity, for recording
2 an instrument that does not comply with the provisions of law that require or allow the recording
3 of the instrument.

4 **SECTION 6.** ORS 18.942 is amended to read:

5 18.942. (1) If a sheriff sells real property at an execution sale, the sheriff shall prepare a certif-
6 icate of sale containing a particular description of the property sold, the price bid for each distinct
7 lot or parcel and the total amount paid. The certificate must state whether the property is subject
8 to redemption. Except as provided in ORS 18.938 (3), the sheriff shall give the certificate to the
9 purchaser.

10 (2) A purchaser [*may*] **shall** record in the County Clerk Lien Record the sheriff's certificate of
11 sale provided to the purchaser under the provisions of this section.

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