

A-Engrossed House Bill 2425

Ordered by the Senate May 13
Including Senate Amendments dated May 13

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor for NW Credit Union Association)

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.

Allows county clerk to record electronic record or record bearing electronic signature **and to charge for electronic delivery of copies of records.**

A BILL FOR AN ACT

1
2 Relating to recording of documents; amending ORS 93.804 and 205.320.

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

4 **SECTION 1.** ORS 93.804 is amended to read:

5 93.804. (1) **As used in this section:**

6 (a) **"Instrument" includes an electronic record as defined in ORS 84.004.**

7 (b) **"Original certification" or "original signature" includes an electronic signature as**
8 **defined in ORS 84.004.**

9 [(1)] (2) Except as provided in subsections [(2) and] (3) **and** (4) of this section, if an instrument
10 presented for recording conveys an interest in real property and is required by law to be acknowl-
11 edged or proved, a county clerk may not record the instrument unless the instrument contains the
12 original signatures of the persons executing the instrument and the original signature of the officer
13 before whom the acknowledgment was made.

14 [(2)] (3) A county clerk may record a certified copy of an instrument that conveys an interest
15 in real property if a law authorizes recording a certified copy of the instrument and the instrument
16 contains the original certification of the certifying officer.

17 [(3)] (4) If an instrument that is eligible to be recorded under the laws of this state is presented
18 for recording as an electronic image or by electronic means, a county clerk may record the instru-
19 ment. If the county clerk records the instrument, the county clerk shall require the person that
20 presents the instrument for recording to certify **by electronic means or otherwise** that the in-
21 strument, **or the instrument from which the electronic image was made**, contains the original
22 signatures required under subsection [(1)] (2) of this section [*or that the instrument from which the*
23 *person made the electronic image contains the original signatures required under subsection (1) of this*
24 *section*].

25 [(4)] (5) A county clerk may enter into a contract to receive instruments as electronic images
26 or by electronic means with a contractor that presents the instruments for recording on behalf of
27 another person. The contractor or the other person shall certify by electronic means or otherwise
28 that the instrument that the contractor presents for recording, or the instrument from which the

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 electronic image was made, contains the original signatures required under subsection [(1)] (2) of
2 this section.

3 **SECTION 2.** ORS 205.320 is amended to read:

4 205.320. (1) In every county there shall be charged and collected in advance by the county clerk,
5 for the benefit of the county, the following fees, and no more, for the following purposes and ser-
6 vices:

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

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

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

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

15 (B) For supplying to private parties copies of records or files, **including by electronic delivery**
16 **of images**, not more than \$3.75 for locating a record requested by the party and 25 cents for each
17 page. As used in this subparagraph, "page" means one side of a sheet 14 inches, or less, long and
18 8-1/2 inches, or less, wide.

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

20 (e) For taking an affidavit for and making and issuing a marriage license and registering the
21 return of the license, or for taking an affidavit for and registering a Declaration of Domestic Part-
22 nership, \$25.

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

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

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

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

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

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

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

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

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

45 (o) For preparing and recording the certificate under ORS 517.280, \$20 or such other fee that

1 is established by the county governing body.

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

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

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

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

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

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

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

17 (e) Fees collected under ORS 205.323 (1)(c) for the housing-related programs listed in ORS
18 294.187 (2)(b).

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