

HOUSE BILL NO. 680
INTRODUCED BY NOENNIG

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING STANDARDS FOR DOCUMENTS THAT ARE RECORDED AND FILED WITH THE OFFICE OF THE CLERK AND RECORDER; ~~ALLOWING A CLERK AND RECORDER TO ACCEPT ONLY CERTAIN DOCUMENTS FOR FILING;~~ ESTABLISHING FEES FOR RECORDING CERTAIN DOCUMENTS; ~~AND AMENDING SECTION 7-4-2631, MCA;~~ AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Standards for recorded documents.** (1) Unless accompanied by the APPROPRIATE fee required in [section ~~3(2)~~ 2], a document submitted for recording that conveys an interest in real property must:

(a) be LEGIBLY printed or typed in black ink in at least 10-point typeface, NOT INCLUDING THE SIGNATURE, on white paper of not less than 20-pound weight, each page of which must be separated and have dimensions of either 8 1/2 x 11 inches or 8 1/2 x 14 inches;

(b) provide the ~~legal~~ names of the parties to the conveyance on the first OR SECOND page of any document with more than one page;

(c) provide a description of the property, ~~which must include the following information:~~

~~—— (i) the name of the county and the sections, townships, and ranges, all of which must be spelled in full, where the property is located; and~~

~~—— (ii) aliquot parts descriptions of the property;~~

~~—— (iii) a lot, tract, or parcel designation and the number of a filed certificate of survey;~~

~~—— (iv) a lot and block designation and the name or number of a filed subdivision plat;~~

~~—— (v) a lot, tract, or parcel designation and the number of a filed corner recordation plat; or~~

~~—— (vi) a metes and bounds description of the perimeter boundary, only if the property has previously been transferred by a recorded document containing the same description and if that description has not been superseded by one of the filed survey documents provided in subsections (1)(c)(iii) through (1)(c)(v);~~

~~—— (i) THE COUNTY, A LOT, TRACT, OR PARCEL DESIGNATION, AND THE NUMBER OF A FILED CERTIFICATE OF SURVEY;~~

~~—— (ii) THE COUNTY, A LOT AND BLOCK DESIGNATION, AND THE NAME OR NUMBER OF A FILED SUBDIVISION PLAT;~~

~~_____ (III) THE COUNTY, A LOT, TRACT, OR PARCEL DESIGNATION, AND THE NUMBER OF A FILED CORNER RECORDATION PLAT; OR~~

~~_____ (IV) THE COUNTY AND THE SECTION, TOWNSHIP, AND RANGE, ALL OF WHICH MUST BE SPELLED OUT IN FULL, AND ONE OF THE FOLLOWING:~~

~~_____ (A) AN ALIQUOT PARTS DESCRIPTION OF THE PROPERTY; OR~~

~~_____ (B) A METES AND BOUNDS DESCRIPTION OF THE PERIMETER BOUNDARY, BUT ONLY IF THE PROPERTY HAS PREVIOUSLY BEEN TRANSFERRED BY A RECORDED DOCUMENT CONTAINING THE SAME DESCRIPTION AND THAT DESCRIPTION HAS NOT BEEN SUPERSEDED BY ONE OF THE FILED SURVEY DOCUMENTS PROVIDED FOR IN SUBSECTIONS (1)(C)(I) THROUGH (1)(C)(III);~~

(d) except as provided in subsection (1)(e) AND EXCEPT FOR PAGE NUMBERS OR OTHER DESIGNATIONS, have margins that are clear of all markings in the following dimensions:

(i) AT LEAST 3 inches at the top of the first page and AT LEAST 1 inch at the top of the second and any subsequent pages; and

(ii) AT LEAST 1 inch on the sides and bottom of each page; and

(e) include the name and mailing address of the person to whom the document is to be returned in the margin in the upper left-hand corner of the first page of each document submitted AND MAY INCLUDE LEGIBLY PRINTED OR TYPED TRANSACTIONAL INFORMATION.

(2) Unless accompanied by the fee required in [section ~~3(2)~~ 2], all other documents submitted for recording must meet the requirements of subsections (1)(a), (1)(d), and (1)(e).

(3) (a) Except as provided in subsection (3)(b), only documents submitted for recording and filing that conform to the provisions of subsection (1) or (2) are considered standard documents for the purposes of [section 3 2].

(b) Documents that are ~~notarized~~ ACKNOWLEDGED as having been executed prior to [the effective date of this act] must be accepted for recording and considered standard documents, regardless of whether they conform to the provisions of subsection (1) or (2).

~~_____ NEW SECTION. Section 2. Filed documents. (1) A county clerk may accept for filing only the following documents:~~

~~_____ (a) subdivision plats and amended subdivision plats;~~

~~_____ (b) certificates of survey, amended certificates of survey, and certified corner recordation forms;~~

~~_____ (c) financing statements and amended financing statements under Title 30, chapters 1 through 5, 7, 8;~~

and 9A;

~~_____ (d) federal tax liens; and~~

~~_____ (e) any other document allowed by law to be filed.~~

~~_____ (2) A clerk may accept a document that is not listed in subsection (1) only for recording.~~

NEW SECTION. Section 2. Fees for recording standard documents. (1) Except as provided in 7-4-2631 AND SUBSECTION (2) OF THIS SECTION, the fee for recording a standard document that meets the requirements of [section 1] is \$6 for each page or fraction of a page.

(2) The fee for recording a document that does not meet the requirements of [section 1] is ~~\$25~~ \$10 for each page or fraction of a page FOR THE FIRST FIVE PAGES OR FRACTIONS OF THE PAGES AND \$6 FOR EACH SUBSEQUENT PAGE.

~~(3) ANY FEE COLLECTED UNDER SUBSECTION (2) MUST BE DEPOSITED IN THE RECORDS PRESERVATION FUND PROVIDED FOR IN 7-4-2635. THE FEES COLLECTED UNDER SUBSECTION (2)~~

~~(A) OF THE FEES COLLECTED UNDER SUBSECTION (1), \$1 MUST BE DEPOSITED IN THE RECORDS PRESERVATION FUND, PROVIDED FOR IN 7-4-2635, AND THE REMAINDER MUST BE DEPOSITED AS PROVIDED FOR IN 7-4-2511.~~

~~(B) OF THE FEES COLLECTED UNDER SUBSECTION (2) FOR NONSTANDARD DOCUMENTS, EACH \$6 AMOUNT FOR A PAGE OR FRACTION OF A PAGE MUST BE DEPOSITED AS PROVIDED FOR IN SUBSECTION (3)(A). THE REMAINING \$4 OF EACH \$10 CHARGE FOR A PAGE OR FRACTION OF A PAGE MUST BE DEPOSITED IN THE RECORDS PRESERVATION FUND, PROVIDED FOR IN 7-4-2635, AND, NOTWITHSTANDING 7-4-2635(3), EACH \$4 AMOUNT FROM A \$10 CHARGE FOR A PAGE OR A FRACTION OF A PAGE MAY BE USED ONLY FOR MAINTAINING, UPGRADING, OR INSTALLING SYSTEMS TO DIGITALLY RECORD AND RETRIEVE DOCUMENTS.~~

Section 3. Section 7-4-2631, MCA, is amended to read:

"7-4-2631. Fees of county clerk. (1) Except as provided in 7-4-2632 AND [SECTION 3(2) 2], the county clerks shall charge, for the use of their respective counties:

(a) for recording and indexing each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with seal affixed, \$6;

(b) for recording and indexing each affidavit of annual labor on a mining claim, including certificate that the instrument has been recorded with seal affixed:

(i) for the first mining claim in the affidavit, \$3; and

(ii) for each additional mining claim included in it, 50 cents;

(c) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, \$5;

(d) for filing of subdivision and townsite plats, \$5 plus:

(i) for each lot up to and including 100, 50 cents;

(ii) for each additional lot in excess of 100, 25 cents;

(e) for filing certificates of surveys and amendments thereto, \$5 plus 50 cents per tract or lot;

(f) for a copy of a record or paper:

(i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and

(ii) for each certification with seal affixed, \$2;

(g) for searching an index record of files of the office for each year when required in abstracting or otherwise, 50 cents;

(h) for administering an oath with certificate and seal, no charge;

(i) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;

(j) for filing, indexing, or other services provided for by Title 30, chapter 9A, part 5, the fees prescribed under those sections;

(k) for recording each stock subscription and contract, stock certificate, and articles of incorporation for water users' associations, \$3;

(l) for filing a copy of notarial commission and issuing a certificate of official character of such notary public, \$2;

(m) for each certified copy of a birth certificate, \$5, and for each certified copy of a death certificate, \$3;

(n) for filing, recording, or indexing any other instrument not expressly provided for in this section or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service; ~~and~~

~~(o) for recording a document that does not meet the requirements of [section 1], \$25 for each page or fraction of a page, as provided in [section 3(2)].~~

(2) State agencies submitting documents to be put of record shall pay the fees provided for in ~~[section 3]~~ or this section. If a state agency or political subdivision has requested an account with the county clerk, any applicable fees must be paid on a periodic basis."

NEW SECTION. Section 4. Codification instruction. [Sections 1 through ~~3~~ AND 2] are intended to be codified as an integral part of Title 7, chapter 4, part 26, and the provisions of Title 7, chapter 4, part 26, apply to [sections 1 through ~~3~~ AND 2].

NEW SECTION. SECTION 5. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 2005.

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