ENROLLED HOUSE
BILL NO. 2011

By: Askins and Hiett of the House

and

Smith of the Senate

An Act relating to recordable instruments; amending 16 O.S. 1991, Section 28, as last amended by Section 1 of Enrolled House Bill No. 1946 of the 1st Session of the 46th Oklahoma Legislature, which relates to instruments written or printed in English; amending 19 O.S. 1991, Section 298, as last amended by Section 2 of Enrolled House Bill No. 1946 of the 1st Session of the 46th Oklahoma Legislature, which relates to recordable instruments containing necessary information for indexing; providing that certain instrument may be typed or handwritten; providing that certain instrument may be an original or certified copy of an original and clearly legible; modifying certain requirements for describing property in certain documents; providing for nonconforming documents; modifying authority of county clerk to refuse a document for recording; modifying requirements regarding size, form, paper color, print type, and margins for certain documents; permitting county clerk to attach certain page under certain circumstances; requiring county clerk to accept certain documents under certain circumstances; providing that certain requirements shall not apply to certain instruments; amending 28 O.S. 1991, Section 32, as last amended by Section 11, Chapter 292, O.S.L. 1993 (28 O.S. Supp. 1996, Section 32), which relates to county clerk fees; providing for fees for filing certain nonconforming documents and additional pages of nonconforming documents; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 16 O.S. 1991, Section 28, as last amended by Section 1 of Enrolled House Bill No. 1946 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 28. No instrument affecting the title to real estate shall be filed for record or recorded unless plainly printed, typed, or ~~written~~ handwritten or partly printed ~~and~~, partly typed, or partly ~~written~~ handwritten, and the instrument is an original or a certified copy of an original instrument, clearly legible in the English language.

SECTION 2. AMENDATORY 19 O.S. 1991, Section 298, as last amended by Section 2 of Enrolled House Bill No. 1946 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 298. A. Every county clerk in each county of this state shall require that the mandates of the Legislature be complied with, as expressed in Sections 287 and 291 of this title~~;~~, and for that purpose, every instrument offered which may be accepted by the county clerk for recording, affecting specific real property whether of conveyance, encumbrance, assignment, or release of encumbrance, lease, assignment of lease or release of lease, shall be an original or certified copy of an original instrument and clearly legible in accordance with the provisions of subsection B of this section, and shall by its own terms describe the property by its specific legal description, and provide such information as is necessary for indexing ~~numerically~~ as required in Sections 287 and 291 of this title, and on each such instrument shall be listed the mailing address of the grantee, mortgagee, assignee or other designated party to which the instrument is to be delivered after recording. If an instrument offered to a county clerk for recording contains more than twenty-five legal descriptions requiring separate entries in the indexes required by Sections 287 and 291 of this title, the descriptions shall be sorted by addition, block, and lot if platted property, or by township, range, and section if described by governmental survey description. Any instrument offered to a county clerk for recording containing more than twenty-five legal descriptions per page, counted as each description which could require a separate line entry in the numerical index, shall be accompanied by an additional filing fee of One Dollar ($1.00) per legal description in excess of twenty-five legal descriptions per page to be paid to the county clerk. Unless the person offering ~~such~~ a nonconforming instrument for filing is willing to reform ~~such~~ the instrument to conform to statutory requirements, for which purpose it may be withdrawn and refiled during the same business day, the county clerk ~~shall have no authority~~ may refuse to record the same in the records of deeds, leases or mortgages ~~nor~~ or to index the same upon the index records referred to in Sections 287 or 291 of this title, or to file or record the same in the office of the county clerk.

B. All documents filed of record in the office of the county clerk pursuant to subsection A of this section or pursuant to any other law shall be an original or a certified copy of an original document. Such documents shall be clearly legible, in the English language, using xerographically reproducible dark ink, on paper of a color that is xerographically reproducible by the copying equipment in use by the county clerk. Unless otherwise provided by law, such documents shall measure no larger than eight and one-half (8 1/2) inches by fourteen (14) inches. All documents shall provide an area free of printed information sufficient in size to accommodate affixation of the documentary stamps required by Section 3201 of Title 68 of the Oklahoma Statutes, any certification of the payment of mortgage taxes required by Section 1901 et seq. of Title 68 of the Oklahoma Statutes, and the recording information affixed by the county clerk upon acceptance of a document for recordation. If an instrument submitted to the county clerk for recording does not contain sufficient space for the affixation of such stamps and recording information without covering language contained in the instrument, the county clerk may attach an additional page to the document to provide for the affixation of such stamps and recording information. The top margin of all documents shall be at least one

(1) inch and all other margins shall be at least one-half (1/2) inch.

C. Despite any provision in this section to the contrary, the county clerk shall accept for filing any document that fails to meet the requirements of subsections A and B of this section if:

1. The document is an original or a certified copy of an original;

2. The document is legible without the aid of magnification or other enhancement of the text;

3. The document is xerographically reproducible by the copying equipment in use by the county clerk;

4. The document meets all other statutory requirements for recordation; and

5. The person offering the instrument for recording pays the additional fee provided in Section 32 of Title 28 of the Oklahoma Statutes for nonconforming documents.

D. This section shall not apply to plats, filings under the Uniform Commercial Code, or any other instruments that may be filed pursuant to any other law.

E. All documents accepted for filing, including all documents filed before the effective date of this act, shall be deemed to comply with the requirements of this section and, except as otherwise provided by law, impart constructive notice of the contents of such document ~~on~~ to third parties unless a person claiming adversely to any such document files an affidavit setting forth the basis of such claim in the office of the county clerk of the county where the property is located within six (6) months from the effective date of this act.

SECTION 3. AMENDATORY 28 O.S. 1991, Section 32, as last amended by Section 11, Chapter 292, O.S.L. 1993 (28 O.S. Supp. 1996, Section 32), is amended to read as follows:

Section 32. A. Notwithstanding any other provision of law county clerks shall charge and collect the following flat fees to be uniform throughout the state regardless of the recording method used, and the county clerks shall not be required to itemize or charge these fees pursuant to any other schedule, except as specifically provided by law:

1. For recording the first page of deeds, mortgages and any other instruments $8.00
2. For recording each additional page of same instrument $2.00
3. For furnishing hard copies of microfilmed records to bonded abstractors only, per page $1.00
4. For furnishing photographic copies of photographic records, or of typewritten script or printed records, per page $1.00
5. For recording plat of one block or less $10.00
6. For recording plat of more than one block .. $25.00
7. For certifying to any copy per page $1.00
8. For recording an assignment of Tax Sale Certificate to be paid by the party purchasing $5.00
9. For recording of any mark or brand and giving certificate for same $5.00
10. For recording each certificate for estrays and forwarding description of same, as required by law $1.00
11. a. For recording and filing of mechanics' or materialmen's liens which includes the release thereof $10.00
    b. For preparing and mailing notice of mechanics' or materialmen's lien $8.00
    c. For each additional page or exhibit $2.00

12. For recording and filing of fictitious name partnership certificates $5.00

To this fee shall be added the fees required by Sections 81 through 86 of Title 54 of the Oklahoma Statutes.

13. For filing and indexing an original financing statement or a continuation statement and for filing a termination statement and a statement of release therefor $10.00

(Section 9-403 of Title 12A)

14. For a filing pursuant to Section 6-209 of Title 12A of the Oklahoma Statutes $10.00

15. For recording the first page of deeds, mortgages, and any other instruments which are nonconforming pursuant to subsection C of Section 298 of Title 19 of the Oklahoma Statutes:

a. before January 1, 1998 ..... $8.00

b. beginning January 1, 1998 ..... $25.00

16. For recording each additional page of an instrument which is nonconforming pursuant to subsection C of Section 298 of Title 19 of the Oklahoma Statutes:

a. before January 1, 1998 ..... $2.00

b. beginning January 1, 1998 ..... $10.00

B. The fees prescribed in paragraph 4 of subsection A of this section shall be deposited into the County Clerk's Lien Fee Account, created pursuant to Section 265 of Title 19 of the Oklahoma Statutes in an amount not to exceed Ten Thousand Dollars ($10,000.00) each fiscal year.

SECTION 4. This act shall become effective July 1, 1997.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 12th day of May, 1997.

Speaker of the House of Representatives

Passed the Senate the 14th day of May, 1997.

President of the Senate