

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1328

By: Crain

AS INTRODUCED

An Act relating to fees and property; amending 28 O.S. 2001, Sections 31, as last amended by Section 1, Chapter 288, O.S.L. 2004, and 32, as last amended by Section 2, Chapter 288, O.S.L. 2004 (28 O.S. Supp. 2005, Sections 31 and 32), which relate to court clerk and county clerk fees; removing certain filings from court clerk; adding certain filings to county clerk; amending 60 O.S. 2001, Section 751, which relates to definitions; modifying definition; and providing an effective date.

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

SECTION 1. AMENDATORY 28 O.S. 2001, Section 31, as last amended by Section 1, Chapter 288, O.S.L. 2004 (28 O.S. Supp. 2005, Section 31), is amended to read as follows:

Section 31. Notwithstanding any other provision of law, the clerk of the district court, or the clerk of any other court of record, shall charge and collect the following fees for services by them respectively rendered and none others, except as otherwise provided by law:

- Approving bond or undertaking, including
 - certificate and seal.....\$3.00
- Making copy of an instrument of record or
 - on file, first page.....\$1.00
 - subsequent pages (each).....\$0.50
- Certifying to any instrument (each).....\$0.50
- Authentication of court records.....\$5.00
- Receiving and paying out money in
 - pursuance of law or order of court.....1%

provided, however, that such charge shall not exceed \$300.00.

Application, issuing, entering return and recording marriage license if the applicants submit a certificate that states the applicants have completed the premarital counseling program pursuant to Section 5.1 of Title 43 of the Oklahoma Statutes.....\$5.00

Application, issuing, entering return and recording marriage license if the applicants do not submit a certificate that states the applicants have completed the premarital counseling program pursuant to Section 5.1 of Title 43 of the Oklahoma Statutes.....\$50.00

Conveyance of full-blood Indian heirs to interest in inherited lands, same to be accounted for as other fees.....\$5.00

Posting notice outside the courthouse.....\$10.00

Mailing, by any type of mail, writs, warrants, orders, process, command or notice for each person.....\$10.00, or actual expense, whichever is greater, except ordinary mailing of first-class mail in probate cases, for each case.....\$10.00, or actual expense, whichever is greater.

For the actual cost of all postage in each case in excess of.....\$10.00, or actual expense, whichever is greater.

~~For filing and indexing of disclaimers other than in pending probate or civil~~

~~cases pursuant to the provisions of
Section 751 et seq. of Title 60 of the
Oklahoma Statutes.....\$5.00~~

SECTION 2. AMENDATORY 28 O.S. 2001, Section 32, as last amended by Section 2, Chapter 288, O.S.L. 2004 (28 O.S. Supp. 2005, 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 not subject to the fee imposed by Section 1-9-525 of Title 12A of the Oklahoma Statutes.....\$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 plus the actual cost of postage
- 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 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..... \$25.00
14. 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..... \$10.00
15. For filing and indexing of disclaimers other than in pending probate or civil cases pursuant to the provisions of Section 751 et seq. of Title 60 of the Oklahoma Statutes.....\$5.00

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.

C. For the purpose of preserving, maintaining, and archiving recorded instruments including, but not limited to, records management, records preservation, automation, modernization, and related lawful expenditures, in addition to all other fees required by law, the county clerk shall collect Five Dollars (\$5.00) for each instrument recorded with the Registrar of Deeds.

D. There is hereby created a fund to be known as the "County Clerk's Records Management and Preservation Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of the fees and monies accruing to the fund, as prescribed in subsection C of this section with all monies accruing to the fund to be expended by the clerk and not transferred to any other fund. The intent of this section is to increase the net funding level available to the county clerk to maintain and preserve public records.

E. The fees and costs prescribed in this section shall not apply to child support enforcement offices operated by or on behalf of the Department of Human Services' Child Support Enforcement Division. County clerks shall not charge any fees or costs to such offices, the Division, or the Department.

SECTION 3. AMENDATORY 60 O.S. 2001, Section 751, is amended to read as follows:

Section 751. As used in this act, unless otherwise clearly required by the context:

1. "Beneficiary" means and includes any person entitled, but for his disclaimer, to take an interest, as grantee; as donee; under any assignment or instrument of conveyance or transfer; by succession to a disclaimed interest, other than by will, intestate succession or through the exercise or nonexercise of a testamentary power of appointment; as beneficiary of an inter vivos trust or insurance contract; pursuant to the exercise or nonexercise of a nontestamentary power of appointment; as donee of a power of

appointment created by a nontestamentary instrument; or otherwise under any nontestamentary instrument;

2. "Interest" means and includes the whole of any property, real or personal, legal or equitable, or any fractional part, share or particular portion or specific assets thereof or any estate in any such property including but not limited to a joint tenancy interest in any such property, or power to appoint, consume, apply or expend property or any other right, power, privilege or immunity relating thereto; and

3. "Disclaimer" means a written instrument which declines, refuses, releases or disclaims an interest which would otherwise be succeeded to by a beneficiary, which instrument defines the nature and extent of the interest disclaimed thereby and which must be signed, witnessed and acknowledged by the disclaimant in the manner provided for deeds of real estate. Disclaimers not involving pending civil cases shall be filed in the miscellaneous docket of the county clerk's office.

SECTION 4. This act shall become effective November 1, 2006.

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