

House Bill 3386

Sponsored by COMMITTEE ON RULES (at the request of Oregon Association of County Clerks)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act allows a deputy of a county clerk to perform weddings. (Flesch Readability Score: 67.7).

Authorizes a deputy of a county clerk to solemnize marriages.

A BILL FOR AN ACT

1
2 Relating to solemnization of marriage; amending ORS 106.120 and 205.320.

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

4 **SECTION 1.** ORS 106.120 is amended to read:

5 106.120. (1) As used in this section:

6 (a) "Judicial officer" means:

7 (A) A judicial officer of this state as that term is defined in ORS 1.210 and includes but is not
8 limited to a judge of a municipal court and a justice of the peace.

9 (B) An active judge of a federal court.

10 (C) An active United States magistrate judge.

11 (b) "Secular organization" means an organization that occupies a place in the lives of the
12 organization's members parallel to that filled by a church or particular religious authority.

13 (2) Marriages may be solemnized by:

14 (a) A judicial officer;

15 (b) A county clerk **or deputy of the county clerk**;

16 (c) Religious congregations or organizations as indicated in ORS 106.150 (2);

17 (d) A clergyperson of any religious congregation or organization who is authorized by the reli-
18 gious congregation or organization to solemnize marriages;

19 (e) Secular organizations as indicated in ORS 106.150 (2); or

20 (f) A celebrant or officiant of any secular organization described in paragraph (e) of this sub-
21 section who is authorized by the secular organization to solemnize marriages.

22 (3) A person authorized to solemnize marriages under subsection (2) of this section may
23 solemnize a marriage anywhere in this state.

24 (4)(a) When a marriage is solemnized by a tax, appellate or circuit judge of this state, the clerk
25 of the court or the county clerk shall collect a fee of \$117 and deposit the fee in the Judicial De-
26 partment Operating Account established in ORS 1.009.

27 (b) When a marriage is solemnized by a county clerk **or a deputy of the county clerk**, the
28 county clerk **or the deputy of the county clerk** shall collect a fee of \$117, as provided in ORS
29 205.320.

30 (c) The fee described in this subsection may be collected only if:

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 (A) The marriage is solemnized during normal working hours, excluding holidays;

2 (B) The marriage is solemnized in court facilities or a county clerk's office; or

3 (C) More than a minimal amount of staff time or other court or county clerk's office resources
4 are used in connection with the solemnization.

5 (d) The Chief Justice of the Supreme Court or the county clerk may establish a written proce-
6 dure for waiver of the fee required under this subsection in exigent circumstances, including but not
7 limited to indigency of the parties to the marriage.

8 (5) In addition to any fee collected under subsection (4) of this section, a judicial officer of this
9 state [*and*], a county clerk **or a deputy of a county clerk** may charge and accept an agreed upon
10 personal payment not to exceed \$100 plus actual costs for the solemnization of a marriage if that
11 solemnization is performed:

12 (a) At a place other than the courthouse where the judicial officer [*or*], county clerk **or deputy**
13 **of the county clerk** serves; or

14 (b) Outside of the **normal working hours of the** judicial [*officer's or county clerk's normal*
15 *working hours*] **officer, county clerk or deputy of the county clerk.**

16 (6) The charging and accepting of a personal payment by a judicial officer of this state [*or*], a
17 county clerk **or a deputy of a county clerk** under subsection (5) of this section does not constitute
18 a violation of any of the provisions of ORS chapter 244.

19 (7) The amount of actual costs charged by a judicial officer of this state [*or*], a county clerk **or**
20 **a deputy of a county clerk** under subsection (5) of this section may not exceed:

21 (a) Actual expenses for food and lodging as verified by receipts.

22 (b) If travel is made by personal vehicle, the actual number of round-trip miles from the judicial
23 officer's [*or*], county clerk's **or county clerk's deputy's** home or office, whichever is greater, com-
24 pensated at the rate of reimbursement then provided by the State of Oregon to its employees or, if
25 travel is made by a commercial carrier, reimbursement shall be made of the actual costs thereof,
26 verified by receipts.

27 (8) A judicial officer of this state [*or*], a county clerk **or a deputy of a county clerk** shall
28 maintain records of the amount of personal payments received for performing marriages, of actual
29 costs and the supporting documentation related thereto for a period of four years.

30 (9) The parties to a marriage solemnized by a tax, appellate or circuit judge of this state shall
31 show to the judge proof of payment of the fee required under subsection (4)(a) of this section before
32 solemnization. Except as provided in subsection (4)(d) of this section, the judge may not solemnize
33 a marriage without proof of payment of the fee.

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

35 205.320. (1) In every county there shall be charged and collected in advance by the county clerk,
36 for the benefit of the county, the following fees, and no more, for the following purposes and ser-
37 vices:

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

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

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

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

1 (B) For supplying to private parties copies of records or files, including by electronic delivery
 2 of images, not more than \$3.75 for locating a record requested by the party and 25 cents for each
 3 page. As used in this subparagraph, “page” means one side of a sheet 14 inches, or less, long and
 4 8-1/2 inches, or less, wide.

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

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

9 (f) For solemnizing a marriage under ORS 106.120, \$117. This paragraph does not require that
 10 the county clerk **or deputy of the county clerk** charge a fee for solemnizing a marriage after
 11 normal working hours or on Saturdays or legal holidays. This paragraph does not prohibit a county
 12 clerk **or a deputy of the county clerk** from charging and accepting a personal payment for
 13 solemnizing a marriage if otherwise authorized by ORS 106.120.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (b) Fees collected for conciliation services under ORS 107.615.
 - 2 (c) Real estate transfer taxes enacted prior to January 1, 1998.
 - 3 (d) Fees collected under ORS 205.323 for the Oregon Land Information System Fund.
 - 4 (e) Fees collected under ORS 205.323 (1)(c) for the housing-related programs listed in ORS
 - 5 294.187 (2)(b).
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