

IC 36-2-11

Chapter 11. County Recorder

IC 36-2-11-1

Application of chapter

Sec. 1. This chapter applies to all counties.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-2

Residence; term of office

Sec. 2. (a) The county recorder must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The recorder forfeits office if the recorder ceases to be a resident of the county.

(b) The term of office of the county recorder under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.3-1987, SEC.546.

IC 36-2-11-2.5

Training

Sec. 2.5. (a) As used in this section, "training courses" refers to training courses related to the office of county recorder that are developed by the Association of Indiana Counties and approved by the state board of accounts.

(b) An individual elected to the office of county recorder after November 4, 2008, shall complete at least:

(1) fifteen (15) hours of training courses within one (1) year;
and

(2) forty (40) hours of training courses within three (3) years;
after beginning the county recorder's term.

As added by P.L.171-2009, SEC.1.

IC 36-2-11-3

Location of office; business hours and days

Sec. 3. The recorder shall keep his office in a building provided at the county seat by the county executive. He shall keep his office open for business during regular business hours on every day of the year except Sundays and legal holidays. However, he may close his office on days specified by the county executive according to the custom and practice of the county.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-4

Legal action on days office is closed

Sec. 4. A legal action required to be taken in the recorder's office on a day when his office is closed under section 3 of this chapter may be taken on the next day his office is open.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-5

Delivery of instruments left for record on expiration of term

Sec. 5. At the expiration of his term of office, the recorder shall deliver all instruments left for record with him to his successor in office, whether the fees for recording them have been paid or not.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-6

Demand of fees; overpayment of fees; refund

Sec. 6. (a) The recorder may demand the recorder's fees before entering and recording an instrument.

(b) If:

- (1) a person, in payment of a recording fee required under IC 36-2-7-10, submits an amount that exceeds the amount of the fee set forth in IC 36-2-7-10; and
- (2) the instrument submitted meets the statutory requirements for filing;

the recorder shall accept and record the instrument. If the amount submitted is at least three dollars (\$3) more than the fee required by IC 36-2-7-10, the amount that exceeds three dollars (\$3) shall be refunded upon the request of the person filing the document. The recorder may retain as an administrative fee up to three dollars (\$3) of the excess of the amount submitted.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.171-2002, SEC.1.

IC 36-2-11-7

Return of instrument to presenter

Sec. 7. When the recorder has received an instrument for record, he may return it to the person who presented it only after the fee for recording the instrument has been paid.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-7.5

Personal liability for dishonored checks

Sec. 7.5. A county recorder is not personally liable for the amount of a dishonored check, for penalties assessed against a dishonored check, or for financial institution charges relating to a dishonored check, if:

- (1) the check was tendered to the county recorder for the payment of a fee; and
- (2) the acceptance of the check was not an act or omission constituting gross negligence or an intentional disregard of the responsibilities of the office of county recorder.

As added by P.L.98-2000, SEC.21.

IC 36-2-11-8

Record of instruments in order received; public access; copies

Sec. 8. (a) The recorder shall record all instruments that are proper for recording, in the order in which they are received in the

recorder's office for record. The recorder shall record deeds and mortgages in separate records.

(b) The recorder shall establish a written procedure for the public to obtain access to the original instrument in order to protect the instrument from loss, alteration, mutilation, or destruction. The recorder shall post the written procedure in the recorder's office.

(c) Providing an exact copy of an original instrument in the possession of the recorder is sufficient to comply with the inspection of public records provided under IC 5-14-3-3 if the original document has not been archived.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.87-2001, SEC.1.

IC 36-2-11-9

Entry book; contents

Sec. 9. The recorder shall keep an entry book in which he shall enter the date on which he received each instrument for recording, the names of the parties to the instrument, a description of the premises affected by the instrument, and the fees for recording the instrument.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-10

Recording requirements

Sec. 10. The recorder may record sheets conforming in size, color, weight, and texture to the pages of the appropriate official record book in which similar instruments are recorded, if:

- (1) the complete text of a printed instrument comprising ten (10) or more printed pages has been accurately and legibly printed on the sheets;
- (2) the original instrument is filed for record in his office at the same time; and
- (3) he is satisfied that the complete text of the original instrument has been accurately and legibly printed on the sheets.

After the recorder has numbered the sheets and securely fastened them into the official record book at the proper place according to the date and time of the filing of the instrument for record, the instruments are considered to have been properly recorded.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-11

Printed forms for record books; requisite

Sec. 11. A county recorder may use printed forms for record books only for the recording of instruments presented by persons who presented fifty (50) or more instruments for recording during the preceding year.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-12

Grantor and grantee index; separate indexes for deeds and mortgages; requisites

Sec. 12. (a) The recorder shall index each volume of instruments the recorder records by:

- (1) the name of each grantor, promisor, or covenantor, in alphabetical order and cross-referenced to the proper grantee, promisee, or covenantee; and
- (2) the name of each grantee, promisee, or covenantee, in alphabetical order and cross-referenced to the proper grantor, promisor, or covenantor.

(b) The recorder shall accurately maintain separate indexes of all the records of:

- (1) deeds for real estate; and
- (2) mortgages on real estate;

in the recorder's office. The recorder shall index each deed or mortgage alphabetically, by the name of each grantor and grantee or mortgagor and mortgagee, and shall include in each index entry a concise description of the real property, the date of the deed or mortgage, and the number or letter of the book and the page at which each deed or mortgage is recorded.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.16-2001, SEC.1.

IC 36-2-11-13

Plat or instrument of title to real property recorded in county where plat or property not located

Sec. 13. If a plat or an instrument of title to real property is recorded in a county other than the one in which the plat or property is located, the county executive of the county in which the plat or property is located may order the recorder of its county to record a copy of the plat or instrument that has been certified by the recorder of the county in which it was first recorded. A copy of a record made under this section that is certified by the recorder of the county in which the plat or property is located has the same force in evidence as the original instrument would have.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-14

Auditor's endorsement required for recording of deed of partition, conveyance of land, or affidavits of transfer to real estate; violation

Sec. 14. (a) The recorder may record:

- (1) a deed of partition;
- (2) a conveyance of land; or
- (3) an affidavit of transfer to real estate;

only if it has been endorsed by the auditor of the proper county as "duly entered for taxation subject to final acceptance for transfer", "not taxable", or "duly entered for taxation" as provided by IC 36-2-9-18.

(b) A recorder who violates this section shall forfeit the sum of five dollars (\$5), to be recovered by an action in the name of the

county, for the benefit of the common school fund.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.54-1988, SEC.4; P.L.106-2003, SEC.7; P.L.106-2007, SEC.6.

IC 36-2-11-15

Instruments that may be received for record or filing; name of person or governmental agency that prepared instrument

Sec. 15. (a) This section does not apply to:

- (1) an instrument executed before July 1, 1959, or recorded before July 26, 1967;
- (2) a judgment, order, or writ of a court;
- (3) a will or death certificate;
- (4) an instrument executed or acknowledged outside Indiana; or
- (5) a federal lien on real property or a federal tax lien on personal property, as described in section 25 of this chapter.

(b) The recorder may receive for record or filing an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property only if:

- (1) the name of the person and governmental agency, if any, that prepared the instrument is printed, typewritten, stamped, or signed in a legible manner at the conclusion of the instrument; and
- (2) all Social Security numbers in the document are redacted, unless required by law.

(c) An instrument complies with subsection (b)(1) if it contains a statement in the following form:

"This instrument was prepared by (name)."

(d) An instrument complies with subsection (b)(2) if it contains a statement in the following form at the conclusion of the instrument and immediately preceding or following the statement required by subsection (b)(1):

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law (name)."

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.171-2006, SEC.21; P.L.160-2007, SEC.4.

IC 36-2-11-16

Requirements for instruments to be received and recorded

Sec. 16. (a) This section does not apply to:

- (1) an instrument executed before November 4, 1943;
- (2) a judgment, order, or writ of a court;
- (3) a will or death certificate; or
- (4) an instrument executed or acknowledged outside Indiana.

(b) Whenever this section prescribes that the name of a person be printed, typewritten, or stamped immediately beneath the person's signature, the signature must be written on the instrument, directly preceding the printed, typewritten, or stamped name, and may not be superimposed on that name so as to render either illegible. However, the instrument may be received for record if the name and signature

are, in the discretion of the county recorder, placed on the instrument so as to render the connection between the two apparent.

(c) Except as provided in subsection (d), the recorder may receive for record an instrument only if all of the following requirements are met:

(1) The name of each person who executed the instrument is legibly printed, typewritten, or stamped immediately beneath the person's signature or the signature itself is printed, typewritten, or stamped.

(2) The name of each witness to the instrument is legibly printed, typewritten, or stamped immediately beneath the signature of the witness or the signature itself is printed, typewritten, or stamped.

(3) The name of each notary public whose signature appears on the instrument is legibly printed, typewritten, or stamped immediately beneath the signature of the notary public or the signature itself is printed, typewritten, or stamped.

(4) The name of each person who executed the instrument appears identically in the body of the instrument, in the acknowledgment or jurat, in the person's signature, and beneath the person's signature.

(5) If the instrument is a copy, the instrument is marked "Copy".

(d) The recorder may receive for record an instrument that does not comply with subsection (c) if all of the following requirements are met:

(1) A printed or typewritten affidavit of a person with personal knowledge of the facts is recorded with the instrument.

(2) The affidavit complies with this section.

(3) The affidavit states the correct name of a person, if any, whose signature cannot be identified or whose name is not printed, typewritten, or stamped on the instrument as prescribed by this section.

(4) When the instrument does not comply with subsection (c)(4), the affidavit states the correct name of the person and states that each of the names used in the instrument refers to the person.

(5) If the instrument is a copy, the instrument is marked "Copy".

(e) The recorder shall record a document presented for recording or a copy produced by a photographic process of the document presented for recording if:

(1) the document complies with other statutory recording requirements; and

(2) the document or copy will produce a clear and unobstructed copy.

(f) An instrument, document, or copy received and recorded by a county recorder is conclusively presumed to comply with this section. A recorded copy shall have the same effect as if the original document had been recorded.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.98-1986, SEC.11; P.L.87-2001, SEC.2; P.L.129-2008, SEC.2.

IC 36-2-11-16.5

Requirements for instrument or document presented for recording

Sec. 16.5. (a) This section does not apply to the following:

- (1) A judgment, an order, or a writ of a court.
- (2) A will or death certificate.
- (3) A plat.
- (4) A survey.

(b) The county recorder may receive for record an instrument or a document without collecting the additional fee described in subsection (c) if:

- (1) the instrument or document consists of at least one (1) individual page measuring not more than eight and one-half (8 1/2) inches by fourteen (14) inches that is not permanently bound and is not a continuous form;
- (2) the instrument or document is on white paper of at least twenty (20) pound weight and has clean margins:
 - (A) on the first and last pages of at least two (2) inches on the top and bottom and one-half (1/2) inch on each side; and
 - (B) on each additional page of at least one-half (1/2) inch on the top, bottom, and each side; and
- (3) the instrument or document is typewritten or computer generated in black ink in at least 10 point type.

(c) For each instrument or document presented for recording that does not conform to the requirements of subsection (b), the recorder may attach additional pages, as needed, and collect one dollar (\$1) for each nonconforming page.

As added by P.L.211-1996, SEC.5.

IC 36-2-11-17

Recording of name of farm; description; conveyance; cancellation

Sec. 17. (a) An owner of a farm may have the name of his farm and a description of the land to which the name applies recorded in a register kept for that purpose by the recorder of the county in which the farm is located. The recorder, under the seal of his office, shall present to the owner a proper certificate setting forth the name and description of the farm.

(b) If a name is recorded as the name of a farm, the name may not be recorded as the name of another farm in the same county.

(c) If the name of a farm is recorded under this section and the owner conveys all of the farm, the recorded name of the farm also is conveyed. If the owner conveys only a part of the farm, the recorded name of the farm is conveyed only if so stated in the deed of conveyance.

(d) An owner of a farm may cancel the recorded name of the farm by making the following statement on the margin of the record of the name: "This name is cancelled and I hereby release all rights thereunder." This statement must be signed by the owner and attested by the recorder.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-18

Marginal entries; satisfaction, cancellation, or assignment; entry in entry book

Sec. 18. (a) The recorder may allow marginal entries.

(b) If a satisfaction, cancellation, or assignment of any kind is made on the margin of a record in the recorder's office, the recorder shall immediately enter it on the entry book. The entry must show the date of entry, the name of the person who executed the instrument satisfied, cancelled, or assigned, and the name, number, and page of the record where the instrument is recorded.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.231-1989, SEC.12.

IC 36-2-11-19

Affidavit; recording in miscellaneous records; record as prima facie evidence

Sec. 19. (a) An affidavit that:

(1) concerns the birth, marriage, death, name, residence, identity, or relationship of any of the parties named in an instrument affecting real property;

(2) is made by a land surveyor registered under IC 25-21.5 and concerns the existence or location of a monument or physical boundary;

(3) is made by a land surveyor registered under IC 25-21.5 and reconciles ambiguous descriptions in conveyances with descriptions in a regular chain of title;

(4) concerns facts incident to the adverse possession of real property and the payment of taxes on that property; or

(5) is made by a purchaser of real property sold on foreclosure or conveyed in lieu of foreclosure of:

(A) a deed of trust securing an issue of bonds or other evidences of indebtedness;

(B) a mortgage;

(C) a contract for the sale of real property; or

(D) any other security instrument;

held by a fiduciary or other representative, and concerns the authority of the purchaser to purchase the property and the terms and conditions on which the property is to be held and disposed of;

may be recorded in the office of the recorder of the county in which the property is located. If an affidavit is presented to the recorder for record under this section, the recorder shall record it in the miscellaneous records in the recorder's office.

(b) An affidavit recorded under this section may be received in evidence in any proceeding affecting the real property and constitutes prima facie evidence of the facts and circumstances contained in the affidavit.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.23-1991, SEC.33.

IC 36-2-11-20

Memorandum of lease; recording; effect

Sec. 20. (a) A memorandum of a lease may be recorded in lieu of the lease itself if the memorandum is executed and acknowledged by the lessor and the lessee and contains:

- (1) the names of the lessor and the lessee;
- (2) the term of the lease;
- (3) any option of the lessee to renew or extend the term of the lease; and
- (4) the specific legal description of the leased premises, or a survey or plot plan authorized under subsection (c) showing the location of the leased premises.

(b) A memorandum recorded under this section may also contain any other agreement made between the lessor and the lessee in the lease.

(c) A survey or plot plan may be used in lieu of a specific legal description to describe:

- (1) any part of a building on the leased premises, if the specific legal description of the real property on which the building is located is set forth in the memorandum, survey, or plot plan;
- (2) any part of the leased premises that is part of a larger tract of land, if the specific legal description of the larger tract is set forth in the memorandum, survey, or plot plan; or
- (3) real property of the lessor, if:
 - (A) its use is restricted by the terms of the lease;
 - (B) it is located wholly within real property of the lessor; and
 - (C) the specific legal description of the real property within which it is located is set forth in the memorandum, survey, or plot plan.

(d) As to the provisions contained in a memorandum recorded under this section, recording the memorandum has the same effect as recording the lease itself.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-21

Repealed

(Repealed by P.L.338-1987, SEC.2.)

IC 36-2-11-22

Certified copy of matter relating to bankruptcy; recording in miscellaneous records

Sec. 22. The recorder shall record a certified copy of a matter relating to bankruptcy if federal law requires that the copy be filed in the county in which lands of the bankrupt are located in order to give notice of the bankruptcy. The recorder shall record the copy in the miscellaneous records and shall index it in the same manner as deeds, in the name of the bankrupt as grantor and the trustee in bankruptcy or receiver as grantee.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-23

Official seal

Sec. 23. (a) The recorder shall use an official seal in attesting an instrument when appropriate to seal the instrument. Before the recorder uses his official seal, he shall file the impression of the seal and a verified description of that impression in the office of the clerk of the circuit court, for recording in the order book of that court.

(b) If the recorder has complied with this section, full faith and credit shall be given to his seal without further attestation.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-24

List of recorded mortgage releases

Sec. 24. The county recorder shall, on or before the 20th day of each month, furnish the county auditor a list of the mortgage releases recorded during the prior month. The list shall set forth the full name of the mortgagor, the book and page numbers of the original mortgage, the amount being released, and the date of the release.

As added by Acts 1982, P.L.44, SEC.10.

IC 36-2-11-25

Federal liens; notice; filing; certificate of discharge; recording; exemption from redaction requirements

Sec. 25. (a) This section applies to:

- (1) a lien arising under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. (commonly known as the Superfund Law); and
- (2) any other federal lien on real property or any federal tax lien on personal property provided for in the statutes or regulations of the United States.

In order for a lien covered by this section to be perfected, notice of the lien must be filed in the office of the recorder of the county in which the real or personal property subject to the lien is located.

(b) When a notice of a lien covered by this section is presented to the recorder for filing, the recorder shall enter it appropriately in the entry book and in the miscellaneous record. The entries made under this subsection must show the date of filing, the book and page number or instrument number, the name of the person named in the notice, a legal description of the property, if appropriate, and any serial number or other identifying number given in the notice.

(c) When a certificate of discharge of a federal lien covered by this section is issued by the proper officer and presented for filing in the office of the recorder of the county where the notice of lien was filed, the recorder shall record the certificate of discharge as a release of the lien. However, to be recorded under this subsection, the certificate must refer to the recorder's book and page number or instrument number under which the lien was recorded.

(d) When recording a release of a lien under subsection (c), the recorder shall inscribe, in the margin of each entry made to record

the lien under subsection (a), a reference to the place where the release is recorded.

(e) Upon the recording of the certificate of discharge as a release under subsection (c) and the inscribing of the references to the release under subsection (d), a certificate of discharge of a lien covered by this section operates as a full discharge and satisfaction of the lien, unless the references to the release inscribed under subsection (d) specifically note the release as a partial lien release.

(f) A federal lien on real property and a federal tax lien on personal property are not subject to the:

- (1) requirement to redact Social Security numbers as described in IC 36-2-7.5-1.5; or
- (2) requirements to include statements in a recorded or filed instrument as described in section 15(c) and 15(d) of this chapter.

As added by P.L.338-1987, SEC.1. Amended by P.L.256-1993, SEC.1; P.L.171-2006, SEC.22.

IC 36-2-11-26

Social Security number on instruments presented for recording

Sec. 26. (a) This section does not apply to an instrument executed before July 1, 2002.

(b) A person may not present for recording by the county recorder a mortgage instrument that discloses a Social Security number.

As added by P.L.16-2001, SEC.2.

IC 36-2-11-27

Payments to county recorder; transaction fees; contracting with payment processing companies authorized

Sec. 27. (a) A payment to the county recorder for any purpose may be made by any of the following financial instruments that the county recorder authorizes to use:

- (1) Cash.
- (2) Check.
- (3) Bank draft.
- (4) Money order.
- (5) Bank card or credit card.
- (6) Electronic funds transfer.
- (7) Any other financial instrument authorized by the county recorder.

(b) If there is a charge to the county recorder for the use of a financial instrument other than a bank card or credit card, the county recorder shall collect a sum equal to the amount of the charge from the person who uses the financial instrument.

(c) The county recorder may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards. A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the county recorder receives payment or credit from the institution responsible for making the payment or credit. Subject to subsection (e), if there

is a vendor transaction card or discount fee, whether billed to the county recorder or charged directly to the county recorder's account, the county recorder shall collect a fee from the person using the bank card or credit card. The fee is a permitted charge under IC 24-4.5-3-202.

(d) Subject to subsection (e), the county recorder may contract with a payment processing company, which may collect a transaction fee from the person using the bank card or credit card.

(e) The county recorder shall collect and deposit in the appropriate fund an amount not less than the amount the county recorder would collect and deposit if the county recorder received payment by a means other than a bank card or credit card.

(f) Funds described in subsection (c) may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

As added by P.L.171-2006, SEC.23.