

Memo

To: Montana Land Information Advisory Council

From: Erin Fashway, State GIS Coordinator

Date: September 9, 2019

Re: MLIA Fee Collections

In August, John Kilgour and I met with Paulette DeHart, Nancy Everson, Eric Spangenberg, Art Pembroke, and Jason Danielson—all Lewis and Clark County staff—to gain some insight into the MLIA recording fees collection process from the county government perspective.

Paulette DeHart, the County Clerk and Recorder, explained that the \$7 per page fee established in section 7-4-2637 (1), MCA is levied on any document that will be made public, which includes a wide range of documents but mostly consists of documents related to real estate transactions. (Please see attached list for all documents on which the fee is levied.) People refinancing mortgages or buying and selling properties make up the bulk of the fee collections. On the 20th of every month, the County submits the portion of the previous month's collections dedicated to the MLIA Account to the Department of Revenue.

We expressed our concerns about the declining collections from the fees and discussed some of the speculation we have heard about why this is happening. Paulette did not think the declining collections are due to an increase in electronic filing. When documents such as mortgages are filed electronically, the County still assesses the \$7 per page fee, so electronic filing doesn't really affect the amount of revenue collected. We asked about mortgage companies possibly filing their documentation out of state and whether that could impact the collections, and Paulette explained that the mortgage companies have an incentive to file the documents in the county where the property is located, so that probably doesn't explain the declining revenues either. She was also unaware of any type of refinancing programs with streamlined paperwork in any way that would reduce the amount of fees being collected.

Finally, Paulette mentioned that the new Gallatin County Clerk and Recorder, Eric Semerad, is working on draft legislation that would increase the document recording fee. She also mentioned that there is a statewide meeting of Clerk and Recorders in Billings the week of August 12, 2019, which would be a good opportunity to discuss these issues with Clerk and Recorders from around the state.

For your information, I have also attached the MCA 7-4-2613. Documents subject to recording on Documents Subject to Recording.

**Example of Documents Subject to County Recording Fee
Lewis and Clark County, August 5, 2019**

Id	Name
AB	AUCTIONEER BOND
ABN	ABANDONMENT
ACCT	Account Payment
AD	AFFIDAVIT OF DEATH/BD
ADJ	Receipt Adjust
ADM	AMENDMENT
AF	AFFIDAVIT
AFFID	AFFIDAVIT FILING
AGR	AGREEMENT
AGRF	AGREEMENT FILED
AHE	ACKN OF HOMESTEAD EXEPT
AK	ACKNOWLEDGEMENT
AMUCC	AMENDMENT OF UCC
AMW	ANNUAL MINING
ANN	ANNEXATION
AR	ANNUAL MINING WORK/B4-9/1/08
ASGOG	ASSIGN OIL/GAS LEASE
ASSGN	ASSIGNMENT
ASSGNUCC	ASSIGNMENT OF UCC
ASUMP	ASSUMPTION OF A MORTGAGE
BDEED	BENEFICIARY DEED
BIRTH	BIRTH CERTIFICATE COPY
BLM	BLM SURVEY
BNKRY	BANKRUPTCY
BOND	BOND
BREL	BOND RELEASE
BS	BILL OF SALE
BSF	BILL OF SALE FILING
BT	Balance Transfer
BYLAW	BYLAW FOR SUB
BYLAWH20	BYLAW FOR SEWER AND WATER
BYLAWSW	BYLAWS SOLID WASTE
CANCELLEASE	CANCELLEASE
CBOND	CONTRACT BOND
CBY	CONDO BYLAW
CERTIF	CERTIFICATE
CITYRES	CITY RESOLUTION
CNOS	CANCELLATION OF NOTICE OF SALE
CNST	CONSENT
COA	CANCELLATION OF ASSIGNMENT
COL	CERTIFICATE OF LOCATION
COND	CONDITIONS OF APPROVAL
CONSER	CONSERVATORSHIP
CONT	CONTRACT
CONTR	CONTRACT FOR DEED
CONUCC	CONTINUATION OF UCC
COPY	COPIES
COS	CERTIFICATE OF SURVEY
COSIRS	CERTIFICATE OF SALE IRS
COUNTY	COUNTY RESOLUTIONS/ORNIDANCES

COV	COVENANTS
CR	CORNER RECORDATION
CRTODR	COURT ORDER
CTL	COUNTY TAX LIEN
DEATH	DEATH CERTIFICATE COPY
DEATHR	DEATH CERT RECORDING
DECL	DECLARATION OF OWNERSHIP OF CONDO
DECR	DECREE
DEED	DEED
DEF	DEFAULT
DIV	DIVORCE
DocumentAdjustment	Document Adjustment
DOH	DECLARATION OF HOMESTEAD
DSCG	DISCHARGE
EMT	EASEMENT
ENCR	ENCROACHMENT
ESTAF	ESTOPPEL AFFIDAVIT
EXEC	EXECUTION
EXTMTG	EXTENSION OF MORTGAGE
EXTOG	EXTENSION OF OIL & GAS LEASE
FLDAM	FLOOD PLAIN AMMENDMENT
FLDP	FLOOD PLAIN
FT	FOREIGN TRUST
FTL	FEDERAL TAX LIEN
GEOPHY	GEOPHYSICAL EXPLORATION PERMIT
HDOFW	HOMEOWNERSDEC
HOBYLAW	HOMEOWNERSBYLAWS
HWYP	HIGHWAY PLANS
IMAGES	IMAGE SUBSCRIPTION AND ZIPS
INH3	INH3
INV	Invoice Payment
JDG	JUDGEMENT
JUD	JUDGEMENT(RECORDED)
LBOND	LABOR BOND
LCAPPL	LEWIS & CLARK SD APPLICATION
LEASE	LEASE
LETR	LETTER PERSONAL REPRESENTATION
LIEN	LIEN
LPR	LIS PENDENS RELEASE
LSP	LIS PENDENS
MDTA	DEED OF TRUST & ASSIGNMENT
MEMO	MEMORANDUM
MER	MERGER
MIN	MINUTES
MISC	MISCELLANEOUS
MISCF	MISCELLANEOUS FILING
MISCRES	MISCELLANEOUS RESOLUTION
MODMTG	MODIFICATION OF MORTGAGE
MSTR	SUBSTITUTION OF TRUSTEE & RECONVEYANCE
MTG	MORTGAGE
NOEX	NOTICE OF EXEMPTION

NOP	NOTICE OF PURCHASE
NOS	NOTICE OF SALE
NOSS	NOTICE OF SHERIFF'S SALE
NOTARIZE	NOTARIZE DOCUMENT
NOTARY	NOTARY
NOTICE	NOTICE
NPT	NUNCPROTUNC
O	OATH
ODR	ORDER/NO CHARGE
OG	OIL & GAS LEASE
OGRAT	RATIFICATION OF OIL & GAS LEASE
OP	OPTION
OR	ORDER
ORD	CITY ORDINANCE
ORF	ORDER FILING
OVER	OVER/SHORT
OVJ	ORDER VACATING JUDGMENT
POA	POWER OF ATTORNEY
POS	PROOF OF SERVICE
PP	PUBLIC PRINTING
PPCERT	PUBLIC PRINTING CERTIFIED
PR	PARTIAL RELEASE OF MORTGAGE
PRA	PARTIAL RELEASE OF ASSIGN
PRAGR	PARTIAL RELEASE OF AN AGREEMENT
PRCL	PARTIAL REL LIEN
PRE	PARTIAL RELEASE OF EASEMENT
PRFTL	PARTIAL REL OF FEDERAL TAX LIEN
PRJL	PARTIAL REL OF JUDGEMENT LIEN
PRJLR	PARTIAL RELEASE OF JUDGEMENT(REC)
PRLP	PARTIAL REL OF LIS PENDENS
PRLSE	PARTIAL RELEASE OF LEASE
PRNT	PROMISSORY NOTE
PRO	PROCLAMATION
PRUCC	PARTIAL REL OF UCC
PT	PATENTS
PTD	PENDING TAX DEED
RANCH	RANCH REGISTRATION
RCL	RIGHT TO CLAIM LIEN
RDMT	REDEMPTION OF TAX ASSIGNMENT
RECMTG	RECONVEYANCE OF MORTGAGE
REESTOP	RELEASE OF ESTOPPEL
REFR	RELEASE OF RIGHT OF FIRST REFUSAL
REFUND	REFUND
REJ	REJECTION LETTER
REL	RELEASE OF INTEREST
RELAGR	RELEASE OF AN AGREEMENT
RELCOV	RELEASE OF COVENANTS
RELEA	RELEASE OF EASEMENT
RELEN	RELEASE OF ENCROACHMENT
RELFTL	RELEASE OF FEDERAL TAX LIEN
RELIE	LIEN RELEASE

RELOG	RELEASE OF OIL & GAS LEASE
RELRCL	RELEASE OF RIGHT TO CLAIM LIEN
RELUCC	RELEASE OF UCC
REQ	REQUEST
REVBDD	REVOCATION BENEFICIARY DEED
REVO	REVOCATION OF CONDOS
REVPA	REVOCATION OF POWER OF ATTORNEY
REVST	REVERSAL OF STATEMENT OF INTENT
REVTR	REVOCATION OF TRUST
RHMST	RELEASE OF DECLARATION OF HOMESTEAD
RLBNK	RELEASE OF BANKRUPTCY
ROA	RELEASE OF ASSIGNMENT
ROR	RIGHT OF REFUSAL
ROS	RECORD OF SURVEY
RRFTL	REVOCATION OF RELEASE OF FED TAX LIEN
RTC	REALTY TRANSFER CERTIFICATE
SAJDR	SATISFACTION JUDGEMENT REC
SANRES	SANITARY RESTRICTIONS
SATASSIGN	SATISFACTION OF ASSIGNMENT
SCOS	SHERIFF CERTIFICATE OF SALE
SEARCH	SEARCH
SFTL	SUB FEDERAL TAX LIEN
SJ	SATISFACTION JUDGEMENT
STATEMENT	STATEMENT OF INTENT
SUB	SUBDIVISION
SUBBND	SUBSTITUTION BOND REC
SUBMTG	SUBORDINATION OF MORTGAGE
SUBT	SUBSTITUTION OF TRUSTEE
SUPIND	SUPPLEMENTAL INDENTURE
TDOC	TRUSTEE DOCUMENTS
TRUST	TRUST
UCC	UCC
UFNProduct	UFN Document Product
VAR	VARIANCE
VFD	VFD MEMBER LIST
WATER	WATER RIGHTS
WILL	WILL
WVR	WAIVER

Montana Code Annotated 2017

TITLE 7. LOCAL GOVERNMENT

CHAPTER 4. OFFICERS AND EMPLOYEES

Part 26. Office of County Clerk

Documents Subject To Recording

7-4-2613. Documents subject to recording. (1) The county clerk shall, upon the payment of the appropriate fees, record by printing, typewriting, photographic, micrographic, or electronic process or by the use of prepared blank forms:

(a) (i) subject to subsection (1)(a)(ii), deeds, grants, transfers, certified copies of final judgments or decrees partitioning or affecting the title or possession of real property any part of which is situated in the county, contracts to sell or convey real estate and mortgages of real estate, releases of mortgages, reconveyances by trustees of deeds of trust, assignments of mortgages and deeds of trust, powers of attorney to convey real estate, leases that have been acknowledged or proved, and abstracts of the instruments that have been acknowledged or proved;

(ii) an instrument or deed evidencing either a division of real property or a merger of real property only if the instrument or deed is accompanied by a certification from the county treasurer that taxes and special assessments that have been assessed and levied have been paid;

(b) notices of buyer's interest in real property, notwithstanding any other requirement of law or rule relating to eligibility for recording of the deed, contract for deed, or other document relating to the notice of buyer's interest. However, if the instrument of conveyance underlying a notice of buyer's interest would be unrecordable, the clerk and recorder shall notify the buyer by certified mail that the underlying instrument is unrecordable and may be void.

(c) an acknowledged statement indicating that the holder of a nonprobate interest in real property is deceased. A nonprobate interest in real property is a joint tenancy interest or a life estate interest. The acknowledged statement must contain:

(i) a statement that the holder of the nonprobate interest has died and that the holder's interest in the property is terminated; and

(ii) a legal description of the property.

(d) certificates of births and deaths;

(e) wills devising real estate admitted to probate;

(f) official bonds;

(g) transcripts of judgments that by law are made liens upon real estate;

(h) instruments describing or relating to the individual property of married persons;

(i) all orders and decrees made by the district court in probate matters affecting real estate and that are required to be recorded;

(j) notice of preemption claims;

- (k) notice and declaration of water rights;
- (l) assignments for the benefit of creditors;
- (m) affidavits of annual work done on mining claims;
- (n) notices of mining locations and declaratory statements;
- (o) estrays and lost property;
- (p) a book containing appraisal of state lands; and
- (q) other writings that are required or permitted by law to be recorded.

(2) Any instrument that qualifies for recording under this section may incorporate by reference any provision, statement, description, or other language or material that is contained in another properly recorded instrument and that is recorded in the same county as the instrument that is incorporating the language or material by reference is to be recorded.

History: Ap. p. Sec. 4411, Pol. C. 1895; re-en. Sec. 3032, Rev. C. 1907; amd. Sec. 1, Ch. 68, L. 1917; re-en. Sec. 4796, R.C.M. 1921; Cal. Pol. C. Sec. 4235; re-en. Sec. 4796, R.C.M. 1935; amd. Sec. 1, Ch. 24, L. 1945; amd. Sec. 1, Ch. 218, L. 1971; amd. Sec. 1, Ch. 199, L. 1975; amd. Sec. 19, Ch. 293, L. 1975; Sec. 16-2902, R.C.M. 1947; Ap. p. Sec. 4414, Pol. C. 1895; re-en. Sec. 3035, Rev. C. 1907; re-en. Sec. 4801, R.C.M. 1921; Cal. Pol. C. Sec. 4238; re-en. Sec. 4801, R.C.M. 1935; Sec. 16-2907, R.C.M. 1947; R.C.M. 1947, 16-2902(part), 16-2907; amd. Sec. 14, Ch. 443, L. 1979; amd. Sec. 1, Ch. 701, L. 1979; amd. Sec. 1, Ch. 377, L. 1981; amd. Sec. 1, Ch. 366, L. 1993; amd. Sec. 11, Ch. 420, L. 1993; amd. Sec. 3, Ch. 391, L. 1995; amd. Sec. 1, Ch. 9, Sp. L. May 2000; amd. Sec. 1, Ch. 37, L. 2001; amd. Sec. 1, Ch. 412, L. 2001.