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CHAPTER 9.

 INDEXING AND FILING

**SECTION 30‑9‑10.** Indexes to records of registry.

To the records of the registry, reference shall be had by means of two indexes, both containing the year of registry, names of parties, record and page, the alphabetical arrangement of one being according to the names of the parties who executed the writings and of the other according to the names of the parties to whom they were executed.

**SECTION 30‑9‑20.** Separate indexes.

The clerks and registers of deeds of the several counties shall provide separate indexes for the different sets of records provided for them.

**SECTION 30‑9‑30.** Filing of written instruments concerning real or personal property; false or fraudulent documents.

(A) Except as otherwise provided by statute, each clerk of court and register of deeds in this State shall keep a record, in the office in which he files all conveyances, mortgages, judgments, liens, contracts, and papers relating to real and personal property required by statute to be kept by him, by entering in the record the names of the grantor and grantee, mortgagor and mortgagee, obligor and obligee, or other parties to the written instruments, date of filing, and nature of the instrument immediately upon its lodgment for record. The filing is notice to all persons, sufficient to put them upon inquiry of the purport of the filed instrument and the property affected by the instrument. A return address must be provided on each conveyance, mortgage, judgment, lien, contract, or other document submitted for filing with the clerk of court or register of deeds. A document may be refused for filing if it lacks a complete return address.

(B)(1) If a person presents a conveyance, mortgage, judgment, lien, contract, or other document to the clerk of court or the register of deeds for filing or recording, the clerk of court or the register of deeds may refuse to accept the document for filing if he reasonably believes that the document is materially false or fraudulent or is a sham legal process. Within thirty days of a written notice of such refusal, the person presenting the document may commence a suit in a state court of competent jurisdiction requiring the clerk of court or the register of deeds to accept the document for filing.

(2) If the clerk of court or the register of deeds reasonably believes that a conveyance, mortgage, judgment, lien, contract, or other document is materially false or fraudulent, or is a sham legal process, the clerk of court or the register of deeds may remove the document from the public records after giving thirty days’ written notice to the person on whose behalf the document was filed at the return address provided in the document. Within thirty days written notice of the proposed removal, the person providing the notice may commence a suit in a state court of competent jurisdiction preventing the clerk of court or the register of deeds from removing the document.

(3) If a clerk of court or a register of deeds improperly refuses to accept for filing or recording or improperly removes from the public records a conveyance, mortgage, judgment, lien, contract, or other document pursuant to this section, the clerk of court or register of deeds is not liable for damages, personally or in his official capacity, for the improper refusal or removal.

(4) For purposes of this subsection:

(a) “Sham legal process” means a document that is not issued lawfully and that purports to be a judgment, lien, or order of a court or appropriate government entity, or otherwise purports to assert jurisdiction over or determine the legal or equitable status, rights, duties, powers, or privileges of a person or property.

(b) “Lawfully issued” means adopted, issued, or rendered in accordance with applicable statutes, rules, regulations, and ordinances of the United States, a state, or an agency or a political subdivision of a state.

**SECTION 30‑9‑31.** Indexing of deeds where grantor is official acting pursuant to court order and not owner of record.

When any deed of real property is executed by a master, referee, judge or other official is grantor acting pursuant to a court order, such deed shall be indexed in the grantor index by the clerk of court in the name of the owner of record of the property concerned immediately prior to execution of the deed, as well as in the name of the official who executes such deed as grantor.

**SECTION 30‑9‑35.** Filings against present or former government officials or employees; notice of invalid judgment or lien; liability of filing attorney; removal of judgment or lien; remedies for persons injured by wrongful filing.

(A) A clerk of court or register of deeds may not accept for filing a judgment or other lien against a present or former federal, state, or local official or employee unless the judgment or other lien is issued by a court of competent jurisdiction or appropriate governmental entity, or the judgment or other lien is otherwise authorized by statute.

(B)(1) If a judgment or other lien is accepted for filing against an individual in contravention of subsection (A), the clerk of court or register of deeds shall accept for filing a notice of invalid judgment or lien. The notice must be signed by the:

(a) assistant United States attorney or other attorney representing the federal agency of which the individual is an official or employee;

(b) assistant attorney general or other attorney representing the state agency, board, commission, department, or institution of higher education of which the individual is an employee or official; or

(c) attorney representing the political subdivision or unit of local government of the State which the official or employee serves if the individual is a local official or employee.

(2) Within thirty days of filing of a notice of invalid judgment or lien, a copy of the notice of invalid judgment or lien must be mailed by the appropriate attorney to the person shown as the judgment or lien creditor or obligee at the return address provided in the judgment or lien. If no name or return address is provided in the judgment or lien, no notice must be given.

(3) An attorney who files a notice of invalid judgment or lien pursuant to this subsection is not liable for damages as a result of filing the notice of invalid judgment or lien.

(4) In addition to the procedure provided in this subsection, the clerk of court or register of deeds may remove a judgment or other lien pursuant to Section 30‑9‑30.

(C)(1) The filing of a notice of invalid judgment or lien voids the judgment or other lien retroactively to the date it was filed.

(2) A person who challenges the claim of invalid judgment or lien must commence suit in a state court of competent jurisdiction within thirty days after the date of mailing of the notice of invalid judgment or lien or the filing of the notice is binding and conclusive as to the invalidity of the judgment or other lien.

(D) A person who is injured by the filing of a judgment or other lien in contravention of subsection (A), has the following civil remedies against the person who filed the judgment or other lien:

(1) actual damages;

(2) punitive damages;

(3) costs; and

(4) reasonable attorney’s fees.

(E) For purposes of this section:

(1) “State or local official or employee” means an appointed or elected official or an employee of a state agency, board, commission, department, in a branch of state government, institution of higher education, other school district, political subdivision, or other unit of government of this State.

(2) “Federal official or employee” means an employee or official of the United States government or a federal agency as defined for purposes of the Federal Tort Claims Act, 28 U.S.C. Section 2671 (1988).

**SECTION 30‑9‑40.** Requirement and effect of indexing of instruments filed for recording.

The register of deeds or clerk of court in those counties where the office of the register of deeds has been abolished shall immediately upon the filing for record of any deed, mortgage, or other written instrument of the character mentioned in Section 30‑7‑10 or Chapter 9 of Title 36 enter it upon the proper indexes in his office, which constitute an integral, necessary, and inseparable part of the recordation of the deed, mortgage, or other written instrument for any and all purposes whatsoever, and this shall likewise apply to any copy of the indexes made subsequently by the register of deeds or clerk of court, or the deputy of either, or by his authority for the purpose of replacing the original indexes. The entries in the indexes required to be made are notice to all persons sufficient to put them upon inquiry as to the purport and effect of the deed, mortgage, or other written instrument so filed for record, but the recordation of a deed, mortgage, or other written instrument is not notice as to the purport and effect of the deed, mortgage, or other written instrument unless the filing of the instrument for record is entered as required in the indexes.

**SECTION 30‑9‑50.** Indexing of deeds of certain officers.

Whenever any clerk of court or register of deeds in counties having such office, tax collector or sheriff shall make any conveyance of, or deed to, real estate, whether pursuant to any order or decree of any court of competent jurisdiction, to a tax sale, to any levy, execution and sale for the satisfaction of a judgment or to any sale pursuant to a partition agreement or ordered by devise or last will, such sale shall be indexed in the office of the clerk of court or register of deeds in the county in which the real estate is situate, not only in the name of the sheriff, clerk of court, register of deeds, or tax collector, making such conveyance, but in the name of the last titleholder. The officer named shall advise the clerk of court or register of deeds of the name of the last title holder and the clerk of court or register of deeds shall index such conveyance in accordance with the provisions hereof.

**SECTION 30‑9‑70.** Indexing of deeds of certain officers and of passage of title by will or inheritance shall not constitute notice.

The indexing required by Sections 30‑9‑50 and 30‑9‑60 shall not constitute notice under the statutes of this State relating to the recording of instruments. But nothing herein contained shall impair or affect the notice of the record of the original instruments as otherwise provided by law.

**SECTION 30‑9‑75.** Second or backup copy of indices maintained by electronic or computer means.

In all cases where indices affecting real property are required to be maintained in the offices of the clerk of court or register of deeds and where these indices are maintained by electronic or computer means, the clerk of court or register of deeds shall provide at least a second or backup copy of the indices which must be available for use by the public in the event of destruction or unavailability of the electronic indices.

**SECTION 30‑9‑80.** Fees for indexing or notation.

For any indexing or notation under Section 30‑9‑50 or 30‑9‑60 the clerk or register shall charge a fee of twenty‑five cents for each paper indexed in the office of the clerk of court or register of deeds and the judge of probate shall charge a fee of twenty‑five cents for each indexing in accordance with the provisions of said sections.