

## CHAPTER 386

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### 386.001 NAME CHANGE.

The name of the register of deeds and office of register of deeds is changed to county recorder and office of county recorder respectively.

**History:** 1976 c 181 s 1

### 386.01 BOND.

Every county recorder, before entering upon the duties of office, shall give bond to the state in the penal sum of \$5,000, to be approved by the county board, conditioned that the recorder will faithfully and impartially fulfill the duties of office. The bond and an oath of office shall be filed for record with the court administrator of the district court.

**History:** (873) RL s 531; 1973 c 524 s 4; 1976 c 181 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82

### 386.015 SALARIES, FEES, BUDGET; COUNTIES UNDER 75,000; APPEALS.

Subdivision 1. [Repealed, 2009 c 152 s 25]

Subd. 2. **Board's salary procedure.** (a) The county board of each of the counties of less than 75,000 population annually shall set by resolution the salary of the county recorder which shall be paid to the county recorder at such intervals as the board shall determine but not less often than once each month.

(b) At the January meeting prior to the first date on which applicants may file for the office of county recorder the board shall set by resolution the minimum salary to be paid county recorder for the term next following.

(c) In the event a vacancy occurs in the office of the county recorder the board may set the annual salary for the remainder of the calendar year at an amount less than was set for that year.

(d) The salary of the county recorder shall not be reduced during the term for which the recorder is elected or appointed.

(e) In the event that duties are assigned to the county recorder which are in addition to duties as county recorder, additional compensation may be provided for the additional duties. The county board by resolution shall determine the additional compensation which shall be paid and specify the duties for which the additional compensation is to be paid.

Subd. 3. [Repealed, 1975 c 301 s 16]

Subd. 4. [Repealed, 2009 c 152 s 25]

Subd. 5. **Public and private fees.** The county recorder shall charge and collect all fees as prescribed by law and all such fees collected as county recorder shall be paid to the county

in the manner and at the time prescribed by the county board, but not less often than once each month. This subdivision shall apply to the fees collected by the county recorder in performing the duties of the registrar of titles and all such fees shall be paid to the county as herein provided. A county recorder may retain as personal compensation any fees the recorder is permitted to charge by law for services rendered in a private capacity as a registered abstractor as defined in section 386.61, subdivision 2, clause (2).

Subd. 6. **Budget, deputies.** (a) The county board by resolution shall provide the budget for:

- (1) the salaries of deputies, clerks and other employees in the office of the county recorder;
- (2) other expenses necessary in the performance of the duties of said office; and
- (3) the payment of premiums of any bonds required of any deputy, clerk or employee in said office

and the board is authorized to appropriate funds therefor and for the salary of the county recorder.

(b) Nothing in this subdivision shall limit the right of the county recorder to appoint deputies for said office as provided in Minnesota Statutes 1961, section 386.33.

Subd. 7. **Salary, budget appeals.** The county recorder if dissatisfied with the action of the county board in setting the amount of the recorder's salary or the amount of the budget for the office of county recorder, may appeal to the district court on the grounds that the determination of the county board in setting such salary or budget was arbitrary, capricious, oppressive or in unreasonable disregard for the responsibilities and duties of said office, and the recorder's experience, qualifications, and performance. The appeal shall be taken within 15 days after the date of the resolution setting such salary or budget by serving a notice of appeal on the county auditor and filing same with the court administrator of the district court. The court either in term or vacation and upon ten days' notice to the chair of the board shall hear such appeal. On the hearing of the appeal the court shall review the decision or resolution of the board in like manner as though reviewed by certiorari, except new or additional evidence may be taken. The court may order the officer appealing and the board to submit briefs or other memoranda and may dispose of the appeal on such writings. If the court shall find that the board acted in an arbitrary, capricious, oppressive or unreasonable manner it shall remand the matter to the county board for further action consistent with the court's finding.

Subd. 8. **When this section takes effect.** The provisions of subdivisions 1 through 7 shall take effect in the respective counties specified in subdivision 1 as follows:

- (1) upon the expiration of the term of the incumbent holding the office on July 1, 1965; or
- (2) upon the occurrence prior thereto of a vacancy in the office of county recorder; or
- (3) subsequent to July 1, 1965, and upon not less than 30 days' written notice by the county recorder, the county board shall make the provisions of subdivisions 1 to 7 effective on the first day of the month following the expiration of the notice period.

Subd. 9. **Inconsistent law superseded.** All laws relating to the compensation, fees and clerk hire for the register of deeds and registrar of titles if one office inconsistent herewith are superseded.

**History:** 1965 c 842 s 1,2; 1967 c 388 s 5; 1976 c 181 s 2; 1985 c 281 s 8; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1Sp1989 c 1 art 11 s 3; 2008 c 277 art 1 s 81; 2009 c 152 s 14

**386.02 DELIVERY TO SUCCESSOR.**

At the expiration of a term of office, every recorder shall deliver promptly to the successor all books, records, papers, and other property pertaining to office and if, on application of the duly qualified successor, the recorder refuses to do so, the recorder shall forfeit and pay to the use of the county \$50 for each and every day of refusal, which may be recovered in an action brought upon the recorder's official bond.

**History:** (874) *RL s 532; 1976 c 181 s 2; 1986 c 444*

**386.03 RECEPTION INDEX.**

Every county recorder shall keep an index, to be denominated as a grantor's and grantee's reception index, which shall contain the following information: date of reception, year, month, day, hour and minute, grantor and grantee, where situated, to whom delivered after recording, fees received, instrument number, and kind of instrument.

The recorder shall enter in the index, in the order and manner aforesaid, as soon as the same are received, all deeds and other instruments authorized by law to be recorded. The reception index shall be maintained in alphabetical order, and every entry made therein shall be made in the reception index under the grantor's surname, and under the grantee's surname, and all such entries shall appear therein consecutively and in the order as to time in which the instruments were received. The recorder shall make an entry in the record immediately for each instrument recorded specifying the time of the day, month, and year when the same was recorded.

**History:** (875) *RL s 533; 1907 c 442 s 1; 1976 c 181 s 2; 1986 c 444; 2005 c 4 s 73; 2008 c 238 art 3 s 6*

**386.04 NUMERICAL REGISTER AND RECEPTION INDEX.**

The board of county commissioners of any county in this state wherein the recorder's office keeps a deed index and mortgage index are hereby authorized to combine the reception index required by section 386.03 and the consecutive index required by section 386.32, the record book to be designated the Numerical Register and Reception Indexes, or designated the Numerical Register and Reception Indexes for use with electronic media. The record shall include the date of reception; number of instrument; grantor; grantee; where the land is situated; the month, day, year, and hour and whether a.m. or p.m.; to whom it will be delivered; where it is recorded; kind of instrument; and fees received.

The recorder shall make the entries in this book or index in accordance with the requirements of sections 386.03 and 386.32 either by manual or electronic means.

**History:** (876) *1909 c 226 s 1; 1976 c 181 s 2; 2005 c 4 s 74*

**386.05 TRACT INDEX BOOKS.**

Every county board shall procure at the expense of its county, and keep in the office of the county recorder suitable books or electronic media so as to allow information to be arranged or retrieved by the description of each section of land or sectional lot, and town or city lot and block arranged in numerical order, give appropriate initial or abbreviation for the type of instrument, and recite the book and page or the recorded document number by which every record affecting the title to the whole or any part thereof may be found. Such tract index shall be kept as one of the records in the office of the county recorder, and such recorder shall note therein the date, time, and minute of every instrument affecting the title to any land filed for record, to be made opposite to each parcel of land the title to which may be affected by such instrument. Instead of

causing a tract index to be made, the board may purchase any existing tract index or abstracts; and thereafter the recorder shall make the appropriate entries therein. In either case, the recorder may make abstracts for persons demanding the same.

**History:** (877) *RL s 534; 1907 c 442 s 1; 1955 c 446 s 1; 1969 c 995 s 6; 1973 c 123 art 5 s 7; 1976 c 181 s 2; 2005 c 4 s 75*

### **386.06 TRACT INDEX BOOKS; CONTRACTS FOR MAKING.**

The board of county commissioners of any county in the state which does not have a tract index, belonging to the county, in the office of the county recorder, of lands within the county, is hereby authorized and empowered to cause or have a tract index made, and may hire, employ, or contract with any competent person, without advertising therefor, to prepare and make such tract index.

**History:** (877-1) *1927 c 19; 1976 c 181 s 2; 1991 c 326 s 19*

### **386.07 TRACT INDEX FOR TORRENS TITLES; HENNEPIN, RAMSEY COUNTIES.**

The county recorder in any county now having, or which may hereafter have, a population of 400,000 or over, and in which the business of the registrar of titles is conducted in a separate place from that of the county recorder, shall provide a tract index of all lands registered under what is known as the Torrens System of land titles, and the same shall be kept in the office of the county recorder in any such county for the use of receiving clerks in checking the properties listed therein with the properties described in the instruments presented for record.

**History:** (877-2) *1927 c 376 s 1; 1976 c 181 s 2*

### **386.071 DOCUMENTS MISFILED.**

The county recorder may reasonably rely on the affirmative representation of the party presenting instruments for filing as to whether the land described in the instruments or any part of it is registered or unregistered. A party who requests that misfiled instruments be refiled with the registrar is responsible for paying any additional fees required to properly file any instrument misfiled because of an incorrect representation and, if applicable, to enter a new certificate of title.

**History:** *1999 c 11 art 1 s 7*

### **386.08 PREPARATION.**

The county recorder of any such county may assign the duty of compiling such index to one or more deputies, who shall be paid for extra time so employed additional salary and compensation at the same rate and in the same manner as is paid them for regular service. The total sum for such extra service shall not exceed \$1,600.

**History:** (877-3) *1927 c 376 s 2; 1976 c 181 s 2; 1986 c 444*

### **386.09 PAYMENT FOR FROM REVENUE FUND.**

The county auditor of any such county shall, upon request of the county recorder, issue warrants in payment for such additional service, in amounts designated by the county recorder, and the same shall be drawn on the county revenue fund.

**History:** (877-4) *1927 c 376 s 3; 1976 c 181 s 2; 1986 c 444*

**386.10** [Repealed, 1961 c 561 s 17]

**386.11** [Repealed, 1961 c 561 s 17]

**386.12** [Repealed, 1961 c 561 s 17]

**386.13 TRANSCRIBING RECORDS OF STATE LANDS.**

The county commissioners of any county in this state are hereby authorized to direct the county recorder of any county containing any lands heretofore granted to the state from the United States government (except sections 16 and 36), and including all lands so granted in lieu of lands in sections 16 or 36, to transcribe from the records of the commissioner of management and budget lists of all such lands including reference to the laws granting the same and by all patents issued thereunder to the state, which transcripts after due examination thereof shall be certified to without charge by the commissioner of management and budget as being true and correct transcripts, and thereupon such transcripts, shall be recorded by the county recorder in whose county such land is situate, which recording shall be done as provided therefor by the county. Such county recorder shall receive the same fees allowed by law for recording original instruments in the office, which fees shall be paid by the county auditor upon the approval of the county commissioners of said county.

**History:** (878) 1913 c 427 s 1; 1973 c 492 s 14; 1976 c 181 s 2; 1986 c 444; 2005 c 4 s 76; 2009 c 101 art 2 s 109

**386.14 RECORDS AS PRIMA FACIE EVIDENCE.**

The record of such transcript shall be prima facie evidence of the facts therein set forth, and of the contents of the original instruments so transcribed and recorded, and a certified copy of such record shall be admissible in evidence in all the courts of this state.

**History:** (879) 1913 c 427 s 2

**386.15 TRACT INDEXES TRANSCRIBED.**

In counties having a population of less than 75,000 now having tract indexes of the records in the office of the county recorder, the county board is hereby authorized to have such tract indexes transcribed, compared with the original records, and checked back when the necessity therefor appears.

**History:** (880) 1905 c 51 s 1; 1911 c 337 s 1; 1976 c 181 s 2

**386.16 COUNTY RECORDER TO SUPERVISE; COMPENSATION.**

The work provided for in section 386.15 shall be performed by the county recorder of the county. The county recorder, for performing the work, shall receive as compensation therefor such sum as may be fixed by the board of county commissioners.

**History:** (881) 1905 c 51 s 2; 1911 c 337 s 2; 1976 c 181 s 2; 2005 c 4 s 77

**386.17 TO EXHIBIT RECORDS.**

The county recorder shall exhibit free of charge, during the hours that the office is or is required by law to be open, any of the records or papers in the recorder's official custody to the inspection of any person demanding the same, either for examination, or for the purpose of making or completing an abstract or transcript therefrom; but no such person shall have the right to have or use such records for the purpose of making or completing abstracts or transcripts therefrom, so as to hinder or interfere with the recorder in the performance of official duties.

**History:** (882) RL s 535; 1976 c 181 s 2; 1986 c 444

**386.18 ABTRACTER; BOND.**

The county board may, by resolution, authorize any person to use a portion of the county building for the purpose of making abstracts of title, upon the execution by such person of a bond to the state in a sum not less than \$500, conditioned for the faithful performance of duties as such abstracter and that the abstracter will handle all public records with care and charge no greater fee for abstracts of title than is or may be allowed by law to county recorders for like services.

**History:** (883) *RL s 536; 1973 c 524 s 5; 1976 c 181 s 2; 1986 c 444*

**386.183** [Repealed, 2005 c 4 s 153]

**386.19 RECORD BOOKS, INDEXES.**

The county recorder shall keep suitable word for word records by either manual or electronic means of all instruments delivered to the recorder for record keeping. The recorder shall keep an alphabetical index either by manual or electronic means, to record, under the proper letter of the alphabet, the name of each grantor and grantee of any instrument delivered for recording.

**History:** (884) *RL s 537; 1975 c 115 s 1; 1976 c 181 s 2; 1986 c 444; 2005 c 4 s 78; 2008 c 238 art 3 s 7*

**386.20** MS 1949 [Renumbered 386.20, subdivision 1]

**386.20 CERTIFICATES OF DISCHARGE FROM U.S. SERVICE.**

Subdivision 1. **Recordation.** (a) Certificates of discharge from the United States Army, the United States Navy, and the United States Marine Corps and releases or transfers from active duty therein may be recorded in the office of the county recorder of any county in this state by the person to whom such discharge, release or transfer was issued without the payment of any fee to the county recorder for recording the same. Upon the request of the person having such instrument recorded, the county recorder shall not stamp, mark, or make any endorsement upon any such certificate of discharge, release or transfer, but after the recording thereof has been completed the recorder shall return the certificate of discharge, release, or transfer in the condition received.

(b) The release of any information pertaining to military certificates of discharge is governed by section 196.08.

Subd. 2. **Prima facie evidence.** The record of such certificate or duly certified copy thereof shall be prima facie evidence of all the facts therein stated and received as evidence of such facts in all courts of this state.

Subd. 3. **Record books.** The county recorder of any county is hereby authorized and empowered to procure at the expense of the county proper record books or electronic media for recording such certificates of discharge with sufficient indexes thereto.

**History:** (885, 886, 887) *1919 c 266 s 1-3; 1945 c 542 s 1; 1976 c 181 s 2; 1986 c 444; 2003 c 124 s 3; 1Sp2003 c 8 art 2 s 19; 2005 c 4 s 79,80*

**386.21** [Renumbered 386.20, subd 2]

**386.22** [Renumbered 386.20, subd 3]

**386.23** MS 1949 [Renumbered 386.23, subdivision 1]

**386.23 PRE-1862 SHERIFF'S CERTIFICATES, TRANSCRIBING.**

Subdivision 1. **Must be transcribed.** The county recorder in any county is hereby authorized and directed to transcribe, in appropriate records or electronic media to be provided for such purpose, all certificates now on file in the recorder's office, which were filed prior to May 10, 1862, made by sheriffs upon sales of real estate on mortgage foreclosures, judgments, and executions.

Subd. 2. **Compensation.** The county recorder shall receive compensation for transcribing each of such certificates, and for comparing and certifying all such certificates, filed prior to May 10, 1862, and not heretofore compared and certified, to be paid out of the county funds, and shall be allowed by the board of county commissioners of such county upon the completion of the work.

Subd. 3. **Prima facie; as of time filed.** The recording of such certificates shall have the effect of a record of the same from time to time when they were filed in such county recorder office and shall be prima facie evidence of the facts therein set forth.

**History:** (888, 889, 890) 1905 c 329 s 3; 1976 c 181 s 2; 1986 c 444; 2005 c 4 s 81,82

**386.24** [Renumbered 386.23, subd 2]

**386.25** [Renumbered 386.23, subd 3]

**386.26** MS 1949 [Renumbered 386.26, subdivision 1]

**386.26 UNRECORDED RECORDS: TRANSCRIBE; RECORD.**

Subdivision 1. **Counties over 100,000.** The county recorder in each county having a population of over 100,000 is hereby authorized and directed to transcribe in appropriate records in writing or by electronic media to be provided by the county for such purpose and to appropriately index all instruments affecting: lists of lands selected by railroad companies under grants from the United States or the state of Minnesota; and all instruments affecting: condemnation proceedings; awards of damages in condemnation proceedings; building line easements; easements for slopes; easements for electric light and telephone poles; now on file in the recorder's office and which have not heretofore been recorded.

Subd. 2. **Prima facie; as of time filed.** The transcribing of such instruments shall have the effect of a record of the same from the time such instruments were filed in such county recorder office, and such records shall be prima facie evidence of the facts therein set forth and of the contents of the original instruments so recorded.

Subd. 3. **In future; record at length.** It is hereby made the duty of the county recorder in any such county to record at length in suitable books or by electronic media to be provided by the county for such purpose all instruments hereafter received either for filing or recording. The recorder shall receive the same fees therefor as are allowed for the recording of other like instruments.

Subd. 4. **Except Ramsey County.** This section does not apply to Ramsey County.

**History:** (893) 1909 c 153 s 1-3; 1974 c 435 art 7 s 1; 1976 c 181 s 2; 1986 c 444; 2005 c 4 s 83; 2008 c 238 art 3 s 8

**386.27** [Renumbered 386.26, subd 2]

**386.28** [Renumbered 386.26, subd 3]

**386.29 TRANSCRIBING ABSTRACT RECORDS.**

The board of county commissioners of any county that has undertaken to have the abstract records in the office of the county recorder transcribed under any law fixing a maximum limit that may be expended for such purpose but is unable to complete such work on account of such limit having been reached may authorize the county recorder or employ any other competent person to complete the same under the supervision and direction of the county recorder at such salary or upon such basis of compensation as may be agreed upon.

**History:** (893-1) 1927 c 104; 1976 c 181 s 2; 2005 c 4 s 84

**386.30** [Repealed, 2005 c 136 art 14 s 21]

**386.31 CONSECUTIVE NUMBERING.**

Each county recorder shall endorse plainly upon each instrument received for record as soon as received a number consecutive, to the extent practicable, to the number affixed to the instrument next previously received and enter such number as a part of the entry relating to such instrument in all the indexes kept in the office and on the margin of the record of the instrument, and such number shall be prima facie evidence of priority of registration. If more than one instrument shall be received at the same time, by mail or other like enclosure, the recorder shall affix such number in the order directed by the sender; if no direction be given, then in the order in which the instruments actually come to the recorder.

**History:** (895) RL s 538; 1976 c 181 s 2; 1983 c 99 s 1; 1986 c 444; 1999 c 11 art 4 s 2; 2005 c 4 s 85; 2008 c 238 art 3 s 9

**386.32 CONSECUTIVE INDEX.**

Each county recorder shall keep an index of all records kept in the office showing the number of the instrument consecutively, the kind, the time of its reception, and where the same is recorded.

Such entries shall be made as soon as the instrument is received, excepting only the place of record, which shall be filled in as soon as such instrument is recorded.

**History:** (896) RL s 539; 1976 c 181 s 2; 1986 c 444; 2005 c 4 s 86

**386.33 DEPUTIES.**

Any county recorder may appoint one or more deputies in writing whose oath of office shall be endorsed on the appointment and recorded therewith in the office. County recorders shall be responsible for the acts of their deputies and may revoke their appointment at pleasure.

**History:** (897) RL s 540; 1976 c 181 s 2; 1986 c 444

**386.34** [Repealed, 2005 c 4 s 153]

**386.35** [Repealed, 1965 c 291 s 12]

**386.36 FARM NAMES RECORDED.**

The owner of farm lands in the state may designate a specific name of the farm lands and this name, together with a description of the farm lands according to the government survey thereof, may be recorded with the county recorder of the county wherein the lands, or a part thereof, are situated, and this name, together with the description of the lands, shall be recorded

by the county recorder, upon payment of a fee as prescribed in section 357.18, but no two names so designated and recorded shall be alike in the same county.

**History:** (899) 1909 c 154 s 1; 1976 c 181 s 2; 1983 c 99 s 2; 1986 c 444; 2005 c 4 s 87

### **386.37 ABSTRACTS OF TITLE.**

In a county in which the county recorder performs abstract services, the county recorder, upon being paid lawful fees therefor, shall make out, under the recorder's certificate and seal, as the same appears of record or on file in the office, and deliver to any person requesting the same:

(1) a full and perfect abstract of title to any real estate together with all encumbrances, liens and instruments in any manner affecting such title;

(2) a continuation of any abstract of title, to any real estate that has been certified to by an official abstracter of the county within a reasonable amount of time after such request;

(3) an abstract of title to any real estate, together with all encumbrances, liens, and instruments in any manner affecting such title, from a certain date to a given date, within a reasonable amount of time after such request; or

(4) an abstract of title to any real estate covering encumbrances and liens, only, affecting such title between any two given dates, within a reasonable amount of time after such request.

**History:** (900) RL s 542; 1927 c 253; 1976 c 181 s 2; 1986 c 444; 2005 c 4 s 88

### **386.375 TRANSFER AND STORAGE OF ABSTRACTS.**

Subdivision 1. **Responsibility to transfer.** (a) A person holding an abstract of title to real estate located in Minnesota shall, at a closing of a sale of the property to which the abstract pertains, make a written offer to transfer the abstract of title to the mortgagor or fee owner at no charge to the mortgagor or fee owner. If the offer is accepted, the abstract must be transferred at the closing unless the abstract of title is being held after the closing for issuance of a final title opinion or policy of title insurance in which case the holder has a reasonable period of time to transfer the abstract.

(b) A person holding an abstract of title to real estate located in Minnesota shall, within ten days of receipt of a written request from the mortgagor or fee owner of the property to which the abstract pertains, transfer the abstract of title to the mortgagor or fee owner at no charge, other than postage, to the mortgagor or fee owner. If the abstract of title is being held after a closing for issuance of a final title opinion or policy of title insurance, the holder has a reasonable period of time to transfer the abstract.

(c) If a person holding an abstract of title to real estate located in Minnesota fails to comply with the requirements of this subdivision, the mortgagor or fee owner of the property may have an abstract of title made at the expense of the last known person holding the abstract of title, and is also entitled to collect actual civil damages of up to \$500 from the person last known to hold the abstract of title.

Subd. 2. **Storage of abstracts.** Before a person holding an abstract of title to real estate located in Minnesota may impose a charge or fee to store the abstract, the person shall first make a written offer to the mortgagor or fee owner to transfer the abstract at no charge, other than postage, to the fee owner or mortgagor. This subdivision does not apply to a person who holds an abstract pursuant to a written contract with the fee owner or mortgagor. A person violating this subdivision is subject to a penalty of \$200 for each violation.

Subd. 3. **Consumer education information.** (a) A person other than the mortgagor or fee owner who transfers or offers to transfer an abstract of title shall present to the mortgagor or fee owner basic information in plain English about abstracts of title. This information must be sent in a form prepared and approved by the commissioner of commerce and must contain at least the following items:

- (1) a definition and description of abstracts of title;
- (2) an explanation that holders of abstracts of title must maintain it with reasonable care;
- (3) an approximate cost or range of costs to replace a lost or damaged abstract of title;
- (4) an explanation that abstracts of title may be required to sell, finance, or refinance real estate; and
- (5) an explanation of options for storage of abstracts.

(b) The commissioner shall prepare the form for use under this subdivision as soon as possible. This subdivision does not apply until 60 days after the form is approved by the commissioner.

(c) A person violating this subdivision is subject to a penalty of \$200 for each violation.

Subd. 4. **Storage in Minnesota.** After August 1, 1987, abstracts of title to real estate located in Minnesota must be stored within the state of Minnesota. Failure to comply with this subdivision entitles a mortgagor or fee owner to civil damages of up to \$500.

Subd. 5. **Exceptions.** This section does not apply if the person holding the abstract of title is the mortgagor or fee owner of the real estate to which the abstract pertains.

Subd. 6. [Repealed, 1996 c 310 s 1]

**History:** 1984 c 566 s 6; 1986 c 358 s 16; 1987 c 329 s 21; 1987 c 336 s 43

**386.38** [Repealed, 1945 c 561 s 9]

### **386.39 INSTRUMENTS NOT PROPERLY EXECUTED.**

Except where otherwise expressly provided by law, no county recorder shall record any conveyance, mortgage, or other instrument by which any interest in real estate may be in any way affected, unless the same is duly signed, executed and acknowledged according to law; any such officer offending herein shall be guilty of a misdemeanor and liable in damages to the party injured in a civil action.

**History:** (902) RL s 543; 1976 c 181 s 2

### **386.40 SEAL.**

Every county recorder shall have an official seal and affix the same to all documents requiring the recorder's official signature, except the endorsement mentioned in section 386.41. The seal may be affixed by a stamp that will print a seal that legibly reproduces under photographic or electronic methods. The seal also may be a printed facsimile or it may be electronically generated.

**History:** (903) RL s 544; 1976 c 181 s 2; 1986 c 444; 1998 c 314 s 1

**386.409 COUNTY RECORDER'S OFFICIAL SIGNATURE.**

When the county recorder's official signature, or that of a deputy is required under section 386.41, an electronically generated signature or name may be used.

**History:** 1998 c 314 s 2; 2008 c 238 art 3 s 10

**386.41 CERTIFICATE OF RECORD.**

Every county recorder shall endorse upon each instrument recorded, over the recorder's official signature, OFFICE OF THE COUNTY RECORDER, ... COUNTY, MINNESOTA, CERTIFIED, FILED, AND/OR RECORDED ON, the date and time when it was recorded and the document number and/or book and page in which it was recorded; and every instrument shall be considered as recorded at the time so noted.

**History:** (904) RL s 545; 1976 c 181 s 2; 1986 c 444; 1998 c 314 s 3

**386.42** [Repealed, 1986 c 322 s 4]

**386.43** [Repealed, 1985 c 233 s 12]

**386.44 OATHS AND PAPERS, WHERE FILED.**

In counties not divided into towns, the official oaths and other papers required by law to be filed in the office of the town clerk shall be filed with the county recorder.

**History:** (777) RL s 446; 1976 c 181 s 2

**386.45 BANKRUPTCY DOCUMENTS MAY BE RECORDED, USED AS EVIDENCE.**

(a) When a petition for bankruptcy, or a decree of adjudication, or an order approving the trustee's bond is made, pursuant to the Federal Bankruptcy Act of 1898, as amended by the Bankruptcy Act of 1938, chapter 575, Statutes at Large, volume 52, page 840, section 21 g, or a petition is made pursuant to the Bankruptcy Reform Act of 1978, hereinafter referred to as the "Bankruptcy Code," the bankrupt, debtor, trustee, receiver, custodian, referee, or any creditor may record a certified copy of the petition, decree, order, or a certificate of a clerk of the United States Bankruptcy Court relating to any matter involving the status of or disposition of the proceedings or pleadings, property of the estate or property of the debtor or documents or orders recorded in the proceeding, all pursuant to the Bankruptcy Code, in the office of the county recorder the instruments in the office of the registrar of titles of any county in this state.

(b) Any certificate so recorded, or a certified copy thereof, is admissible as evidence in any action involving any instrument to which it relates or involving the title to the real estate affected by the certificate and is prima facie evidence of the facts stated therein.

**History:** (887-1) 1939 c 117; 1976 c 181 s 2; 1981 c 2 s 1; 2005 c 4 s 89

**386.459 OFFICIAL RECORDS; COMPILATION, MAINTENANCE, AND STORAGE OF INFORMATION.**

The county recorder may select and use alternative methods for the compilation, maintenance, and storage of the information contained in the official records listed in sections 386.03, 386.04, 386.05, 386.19, and 386.32, subject to the following conditions:

(1) the methods selected must provide for access to the information contained in the records by those authorized by law to have access to that information; and

(2) the methods selected must provide for the preservation of the information contained in the records to the extent specified by law.

**History:** 1998 c 314 s 4

### **386.46 DISPOSAL OF OBSOLETE RECORDS.**

Documents, filed or recorded by the county recorder, including sheriffs certificates, land title patents, incorporations, official bonds, mechanics liens, affidavits, orders of courts exercising probate jurisdiction, district court orders, satisfactions, warranty deeds, quitclaim deeds, lis pendens, assignments, and miscellaneous documents, but still in possession because uncalled for by their owner for ten years after the filing or recording, may be destroyed by the county recorder. Federal liens, except federal estate and gift tax liens, may be destroyed ten years and 30 days, and state liens may be destroyed ten years after their filing or last extension and stricken from the indexes.

**History:** 1947 c 265 s 1; 1976 c 181 s 2; 1982 c 377 s 1; 1986 c 444; 1991 c 291 art 18 s 13; 1995 c 189 s 8; 1996 c 277 s 1

### **386.47 OBSOLETE RECORDS, DESTRUCTION.**

Any county board or the governing body of any municipality may by resolution authorize the destruction of the following instruments filed in the office of the county recorder of the county or clerk of the municipality:

(1) all satisfactions of chattel mortgages and releases of conditional sales contracts filed for record more than ten years; and

(2) all unsatisfied chattel mortgages and unreleased conditional sales contracts ten years after maturity; if no maturity date is shown, then ten years after the date of filing.

**History:** 1969 c 369 s 1; 1976 c 181 s 2

### **386.51 MAY RECORD U.S. AGENCY MAPS, PLATS, SURVEYS, PHOTOS.**

Upon the application of any interested person, and upon the payment of the fees required herein, the county recorder in and for the county wherein the land described in the instrument lies shall accept and file for record any map, survey, plat, surveyors notes or aerial photograph made and prepared by or for or under the direction and control of any agency of the United States.

**History:** 1955 c 324 s 1; 1976 c 181 s 2

### **386.52 CERTIFICATE OF AUTHENTICATION.**

Any such instrument shall be accompanied by an official certificate of the public officer or official charged with responsibility for custody of the original record so filed and recorded, testifying as to the official character of the instrument and certifying the copy tendered as a true, correct, and complete copy of the original and stating where the original document may be found.

**History:** 1955 c 324 s 2

### **386.53** [Repealed, 2005 c 4 s 153]

### **386.61 DEFINITIONS.**

Subdivision 1. **Application.** For the purpose of sections 386.61 to 386.76, unless a different meaning is indicated by the context, the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. **Licensed abstracter.** "Licensed abstracter" means any official, person, firm or corporation obtaining licenses pursuant to the terms of sections 386.61 to 386.76; and includes (1) present duly qualified and acting county recorders not now prohibited by law from making abstracts; (2) any person, firm or corporation engaged in the business of making abstracts of title and issuing certificates showing ownership of, or interest in, or liens upon any lands in the state of Minnesota, whether registered or not.

Subd. 3. [Repealed, 1993 c 369 s 146]

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of commerce.

**History:** 1957 c 871 s 1; 1975 c 271 s 6; 1976 c 181 s 2; 1976 c 222 s 188; 1994 c 465 art 1 s 49

### **386.62 LICENSE.**

No official, person, firm, association, or corporation shall engage in the business of making abstracts of title and issuing certificates showing ownership of, or interest in, or liens upon any lands in the state of Minnesota, whether registered or not, without first obtaining a license pursuant to the provisions of sections 386.61 to 386.76.

**History:** 1957 c 871 s 2; 1975 c 419 s 1; 1976 c 222 s 189

**386.63** [Repealed, 1993 c 369 s 146]

**386.64** [Repealed, 1993 c 369 s 146]

### **386.65 EXAMINATION OF APPLICANTS FOR LICENSE.**

Subdivision 1. **Procedure; conditions.** Applications for a license shall be made to the commissioner and shall be upon a form to be prepared by the commissioner and contain such information as may be required by it. Each applicant must pass an examination approved for use by the commissioner. The examination must be of sufficient scope to establish the applicant as capable of performing the duties of an abstracter whose work will be for the use and protection of the public. If application is made by a firm or corporation, one of the members or managing officials thereof shall take such examination. If the applicant successfully passes the examination and complies with all the provisions of sections 386.61 to 386.76, the commissioner shall issue a license to the applicant.

Subd. 2. [Repealed, 1976 c 222 s 209]

Subd. 3. [Repealed, 1991 c 100 s 3]

**History:** 1957 c 871 s 4; 1976 c 222 s 194; 1978 c 674 s 60; 1986 c 444; 1993 c 369 s 129; 1995 c 68 s 9

### **386.66 BOND OR ABSTRACTER'S LIABILITY INSURANCE POLICY.**

Before a license shall be issued, the applicant shall file with the commissioner an annual bond or abstracter's liability insurance policy for each license year, to be approved by the commissioner, running to the state of Minnesota in the penal sum of at least \$100,000 conditioned for the payment by such abstracter of any damages that may be sustained by or accrue to any person by reason of or on account of any error, deficiency or mistake arising wrongfully or negligently in any abstract, or continuation thereof, or in any certificate showing ownership of, or interest in, or liens upon any lands in the state of Minnesota, whether registered or not,

made by and issued by such abstractor, provided however, that the aggregate liability of the surety to all persons under such bond shall in no event exceed the amount of such bond. If the applicant intends to engage in the business of abstracting in any county having more than 200,000 inhabitants, the bond or insurance policy required herein shall be in the penal sum of at least \$250,000. Applicants that are title insurance companies regulated by chapter 68A and licensed pursuant to sections 60A.02 and 60A.06, subdivision 1, clause (7), and their employees or those having cash or securities on deposit with the state of Minnesota in an amount equal to the said bond or insurance policy shall be exempt from furnishing the bond or an insurance policy herein required but shall be liable to the same extent as if a bond or insurance policy has been given and filed. The bond or insurance policy required hereunder shall be written by some surety or other company authorized to do business in this state issuing bonds or abstractor's liability insurance policies and shall be issued for a period of one or more years, and renewed for one year at the date of expiration as principal continues in business.

**History:** 1957 c 871 s 5; 1975 c 419 s 2; 1976 c 222 s 195; 1986 c 444; 1991 c 100 s 1; 1993 c 77 s 1; 1993 c 369 s 130; 1994 c 465 art 1 s 50; 1995 c 68 s 10; 1996 c 439 art 3 s 12

### **386.67 LICENSED ABTRACTER, SEAL.**

A licensed abstractor furnishing abstracts of title to real property under the provisions hereof shall provide a seal, which seal shall show the name of such licensed abstractor, and shall file with the commissioner the signatures of persons authorized to sign certificates on abstracts and continuations of abstracts and certificates showing ownership of, or interest in, or liens upon any lands in the state of Minnesota, whether registered or not, issued by such licensed abstractor.

**History:** 1957 c 871 s 6; 1976 c 222 s 196; 1991 c 100 s 2; 1993 c 369 s 131; 1995 c 68 s 11

### **386.68 FEES.**

The following fees must be paid to the commissioner: an initial licensing fee of \$50; and a license renewal fee of \$40.

**History:** 1957 c 871 s 9; 1975 c 419 s 3; 1976 c 222 s 197; 1993 c 369 s 132; 1995 c 68 s 12

### **386.69 LICENSES.**

Licenses issued by the commissioner under the provisions hereof shall recite that such bond or insurance policy has been duly filed and approved, and the license shall authorize the official, person, firm or corporation named in it to engage in and carry on the business of an abstractor of real estate titles in the state of Minnesota. The license shall be issued for a period as determined by the commissioner, and shall thereafter be renewed upon conditions prescribed by the commissioner.

**History:** 1957 c 871 s 7; 1976 c 222 s 198; 1993 c 369 s 133; 1995 c 68 s 13

**386.695** [Repealed, 1976 c 222 s 209]

**386.696** [Repealed, 1976 c 222 s 209]

**386.70** [Repealed, 1993 c 369 s 146]

**386.705 ADMINISTRATIVE ACTIONS AND PENALTIES.**

An abstracter licensed under sections 386.61 to 386.76 is subject to the penalties imposed pursuant to section 45.027. The commissioner has all the powers provided in section 45.027 and shall proceed in the manner provided by that section in actions against abstracters.

**History:** 1993 c 369 s 134

**386.706 RULES.**

The commissioner may adopt rules necessary for the administration of sections 386.61 to 386.76.

**History:** 1993 c 369 s 135

**386.71 LICENSED ABSTRACTERS, ACCESS TO PUBLIC RECORDS.**

Licensed abstracters shall have access during ordinary office hours to the public records in the office of the county recorder in the county in which such abstracter is authorized to function, to make such memoranda, microfilm, photostats, photographs, or notations from the records thereof as may be necessary for the purpose of making or compiling abstracts, continuations thereof, or issuing certificates showing ownership of, or interest in, or liens upon any lands in the state, whether registered or not, and the compiling, posting, copying and keeping up their abstract books, indices, or other records necessary to carry on or perform the duties and functions of a licensed abstracter, provided that such access during ordinary office hours shall in no manner hinder or interfere with the public officer in the performance of official duties.

**History:** 1957 c 871 s 8; 1975 c 419 s 7; 1976 c 181 s 2; 1976 c 222 s 200; 1986 c 444; 1987 c 384 art 2 s 88

**386.72 ABSTRACTER'S CERTIFICATE AS PRIMA FACIE EVIDENCE.**

Any abstract of title, continuation thereof, or certificate showing ownership of, or interest in, or liens upon any lands in the state of Minnesota, whether registered or not, certified to be true and correct by any licensed abstracter under the signature and seal of such abstracter shall be received by the courts of this state as prima facie evidence of the existence or nonexistence of records, the content and filing indicated on such abstract, continuation thereof, or certificate hereinbefore described.

**History:** 1957 c 871 s 11; 1976 c 222 s 201

**386.73 COUNTY RECORDERS, MAY EMPLOY LICENSED ABSTRACTERS.**

Nothing herein shall prohibit any county recorder who does not hold a certificate of authority pursuant to the provisions hereof from employing a licensed abstracter and issuing abstracts pursuant to sections 386.61 to 386.76.

**History:** 1957 c 871 s 15; 1976 c 181 s 2; 1976 c 222 s 202

**386.74 RIGHTS OF COUNTY RECORDERS NOT ABRIDGED.**

Sections 386.61 to 386.76 shall not apply to nor abridge the rights of county recorders, as set forth in section 386.37.

**History:** 1957 c 871 s 16; 1976 c 181 s 2

**386.75 PRACTICE OF ATTORNEYS NOT ABRIDGED.**

Nothing herein shall limit or abridge the rights of a duly licensed attorney at law in the attorney's practice in the state of Minnesota.

**History:** 1957 c 871 s 13; 1986 c 444

**386.76 VIOLATION A MISDEMEANOR.**

Any person who violates any of the provisions of sections 386.61 to 386.76 shall be guilty of a misdemeanor.

**History:** 1957 c 871 s 12

**386.77 FILING FEE FOR STATE, CITY, TOWN ITEM MAY BE BILLED.**

An instrument of conveyance, assignment, or release; a judgment; or other document, which is entitled to recording or filing, and which by its terms is for the benefit of the state or any county, city, or town, shall be recorded or filed by any county recorder or registrar of titles without the payment of fees when offered for filing or recording by the state or any of its agencies, or by the benefited subdivision. The fee for the recording or filing shall be paid by the state, its agency, or by the benefited subdivision, but not by another department or agency of that county, upon submission of a statement of charges by the county recorder or registrar of titles.

**History:** 1967 c 124 s 1; 1973 c 123 art 5 s 7; 1976 c 181 s 2; 1985 c 281 s 9; 1986 c 399 art 1 s 28; 1986 c 416 s 10

**386.78 SECURITY DEPOSITS.**

The county recorder in each county may accept security deposits to guarantee payment of charges. The county recorder shall deposit any accepted security deposit in a security fund with the county treasurer. The county treasurer may invest said funds and the income therefrom shall be deposited in the general fund of the county.

The county recorder shall extend credit to any person who has made such deposit up to the amount of the deposit.

Any person may withdraw any such deposit provided that any unpaid items shall first be deducted therefrom, except that the county recorder may require a reasonable minimum deposit be maintained based on anticipated monthly charges of the depositor.

**History:** 1969 c 802 s 1; 1976 c 181 s 2; 1999 c 69 s 1; 2004 c 274 s 2