

KANSAS REGISTER OF DEEDS ASSOCIATION

# INTRODUCTION

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BRIEF OVERVIEW OF FUNCTIONS

# INTRODUCTION

The Register of Deeds sets the tone for how the office will operate. A good attitude and professional demeanor send a strong and positive message for the public and staff. If you want to be treated in a professional manner then you should act professional and respectful. How you conduct yourself reflects directly on your office.

It is important that you remember you are an elected official and must uphold the highest ethical standards. Every person who comes in contact with the office should receive the same treatment. There should be no room for special considerations or efforts on the part of one citizen or entity over the other. If so, serious consequences may occur during your term in office and future elections. The office serves many different people on a daily basis. It is a good rule to treat each one, as you would want to be treated.

Neither the Register of Deeds nor any staff member may use the office for personal gain. Although the documents recorded become public record, the information from those documents should not be discussed outside the office. There are certain situations where the Register of Deeds may have knowledge of business transactions that are not available to the public at that time. It is the responsibility of the Register of Deeds to keep those matters confidential.

On a daily basis the office will distribute information and answer questions. It is important at all times that we remember we are recorders, and not title researchers or attorneys. The functions of our office must be performed without crossing the line of giving legal advice. It is important that you help staff understand how to avoid practicing law. It is unwise to advise a customer as to what document should be used or how the document should be completed. To do so may cause complications later.

In addition, you must also remember that we are not title researchers. Nor are our records the only records that are searched to complete a title search. The District Court has records that can determine ownership and also put liens on real estate. Title companies follow specific title standards.

Although we are not attorneys or abstractors, we are still professionals in our field. The Register of Deeds office is governed by Kansas State Statutes and it is of utmost importance that we follow them.

The Register of Deeds office performs some very important functions for county government.

Much like a house needs a strong foundation, so does the county government system. The Register of Deeds office is charged with the recording and preserving all land records. These records are what provide the foundation for your county. It is through these records that an accurate tax roll is built and maintained. If the records in the Register of Deeds office are not maintained properly, the base will be unstable and eventually the system will fail.

Not only does the Register of Deeds work with other county officials, they must work with the private sector to keep the records accurate and useable.

Developing good working relationships with your customers and businesses that use your office, such as title companies, lenders and attorneys is important. These professionals may be the same citizens who voted for you to serve as Register of Deeds. Show friendliness and willingness to work with these people and they will respect you and re-elect you to office. Remember, that by discussing the situation in a logical and professional manner, problems can be worked out.

Be consistent and uniform in your daily recording procedures. Keep records consistent, keep office manners consistent, and keep your staff consistent in their jobs. First and foremost, you must manage your office based on the requirements of the statutes.

Be careful not to be brought into disputes concerning other Register of Deeds offices. When asked to comment on the operations of another office, the best answer is to be respectful of both the other Register of Deeds and the person making the comment. Every county is unique and not every county operates exactly the same. A large size county cannot operate the same way a small county operates. Learn to understand and appreciate the differences in each office. Every office has a reason for their procedures and policies. However, it is the responsibility of each Register of Deeds to carry out the statutory requirements.

A learning environment is necessary in the administration of the Register of Deeds office. There will always be new questions. It is important to instill in yourself and your staff a willingness to learn and grow with each new experience. The Register of Deeds office does not control the amount of work that arrives each day. Register of Deeds must be prepared to adjust to the various levels of workload. It is a good idea to balance your workload and office by cross training employees to do multiple tasks in your office.

This manual outlines the roles and responsibilities of the Register of Deeds office. Unique circumstances exist in each Register of Deeds office. This manual is intended to be a set of guidelines and provide reference information. You may find it helpful to make notations and additions where appropriate. It is suggested that all notations be dated and referenced if possible. Over the years, this will help to identify when a change was made, if the change was statutory or administrative and who might have been included in the decision making.

Every attempt will be made on the part of the Kansas Register of Deeds Association to provide updated information and changes. Corrections, additions and suggestions for the manual should be directed to the Education/School Committee for consideration and distribution.

# **OVERVIEW DUTIES AND MISCELLANEOUS INFORMATION**

## **FRIENDS OF THE COUNTY**

Many people access the county courthouse and the Register of Deeds office. The overwhelming majority of people are professional and civil in their interactions. A very small minority are difficult people. These "Friends of the County" require special handling. Most situations will call for a cool head, nerves of steel, firmness and perspective to try and calm the situation by showing that you are concerned and paying attention to the issues at hand. It might be appropriate to ask the person to sit down and visit about the situation. Calmly explain your perspective and why the required procedures and policies are in place. Some people may not understand the complexity that is involved and the outcome if proper procedures and policies are not followed. Do not feel that you have to give a solution to the situation immediately. Ask for time to research the problem. This will give all parties an opportunity to address the issue in a less stressful environment. Try to keep the situation in perspective. Try not to let the actions of one rude or abusive customer punish the overwhelming majority of customers who act in a reasonable fashion.

If the situation becomes too heated, do not hesitate to call for assistance. The Board of County Commissioners and the Sheriff have most likely addressed security issues. It is the responsibility of the Register of Deeds to keep the board and the Sheriff aware of any security concerns. Some offices have found it necessary to restrict access to all parts of the office. Some offices have installed "panic" buttons that alert security officials. The exact number and behaviors of the "friends of the county" will dictate the necessary actions.

## **INTRA COURT HOUSE FUNCTIONS RELATED TO OFFICE**

It is always to the benefit of the Register of Deeds to maintain a good working relationship with the Board of County Commissioners and other elected county and state officials. No office is an island to its own, but must interact and depend on the other offices. Service to the citizens is provided best when all offices work together to meet the needs.

## **BOARD OF COUNTY COMMISSIONERS**

The County Commissioners are charged with overseeing and coordinating all county operations, much like a contractor oversees the building of a house. It is imperative that the County Commissioners keep the "Big Picture" in mind when making all decisions. It is through their decisions that the plan for success is laid out.

The Commissioners are in charge of all financial decisions. This begins with the budgeting process. The Register of Deeds should make sure the needs of the office are communicated in the initial budget documents to the County Commissioners. It is important that the budget includes enough money for the Register of Deeds to maintain the office, hire personnel, train personnel and preserve records. The budget should also allow money to be spent on continuing education through the Register of Deeds Association telnet classes and by attending

meetings. The county commissioners are given the task of reviewing the budget and either approving it or changing it based on the current state of the economy.

The County Commissioners may adopt personnel and purchasing procedures. If such policies exist, the Register of Deeds is required to follow such policies.

Some counties hold monthly department head meetings with the County Commissioners. This allows each department to update all departments on the happenings of their offices. Some Register of Deeds also provides the County Commissioners with pertinent statutes. For example KSA 19-1202 on appointing a Deputy, KSA 10-625 on bond registration and KSA 28-123 on keeping a "fees record book" are some examples. In some counties, departments meet on a weekly basis with the County Commissioners.

## COUNTY CLERK

In addition to a solid foundation, a house and county government require strong framework. The County Clerk's office provides the necessary framework to make the county "work". They perform many varied tasks that are essential. The Kansas Statutes state several ways in which the Register of Deeds and the County Clerk are linked. The Register of Deeds is responsible for transferring to the county clerk any document conveying real estate immediately upon recording such document as per KSA 58-2241. The Register of Deeds is also responsible for forwarding to the County Clerk the last known address and full name of the person to whom the property has been conveyed or his or her designee as stated in KSA 58-2221. The Clerk performs this process by attaching a certificate to the conveyance indicating that the proper transfers have been made on the tax roll in that office as required by KSA 58-2239. The certificate may be a printed form attached to the face of the conveyance or the clerk might affix a transfer stamp that is signed by the County Clerk.

In some counties the Register of Deeds sends a copy of the Real Estate Sales Validation Questionnaires to the clerk's office with the deed. The validation questionnaire are to be sent to the Appraiser's office by the Register of Deeds office. The routing system seems to vary with each county. It is best to work with the County Clerk's Office and Appraiser's office to determine the procedures that best suit the needs of all offices while fulfilling the statutory duties of making the transfers of all conveyances and information pertinent to those transfers.

Documents that convey real estate may be deeds, death certificates, divorce decrees, probates, etc... Oftentimes these documents act as "transfers" of real estate by removing a name from a Joint Tenancy Deed.

Other duties include: Payroll & Benefit Administration, payment of all county bills, prepare and maintain all county financial reports, preparation of the Abstract of Valuation and Elections.

## COUNTY TREASURER

No house is complete without the finishing touches. In County Government, these details are left to the Treasurer. It is their duty to oversee all county monies.

These monies include anything from fees brought in by other county office and entities to the property taxes collected each year from the taxpayer.

The Register of Deeds collects the filing fees and mortgage registration tax as required by state statutes. This money is then given to the County Treasurer to be deposited in the county general fund. The Kansas statute requires that the money be turned over daily. KSA 79-3104 However, some counties remit monthly. Some counties prefer that the Register of Deeds have a checking account where revenues are deposited. The Register of Deeds then writes a check to the Treasurer's office.

When a multi-county mortgage is filed the Treasurer of the county where the mortgage is first filed determines how much mortgage registration tax is to be remitted to each county. The Treasurer uses the valuation of the land in each county to make a ratio and then calculates the percentage of tax for each county. The pertinent statutes are KSA 79-3105 and KSA 79-3106. How soon the check is mailed to the respective counties will vary from county to county. A Register of Deeds may receive a mortgage accompanied with a "certificate" from another county Register of Deeds stating the mortgage registration tax has been paid in that county. The "certificate" serves as a way for the mortgage to be immediately recorded and allows the Treasurers from the counties involved time to determine the distribution of the taxes for each county. The Register of Deeds should file the mortgage and not wait until the County Treasurer has made the tax distribution.

The County Treasurer remits to the State Property Valuation Division the part of the mortgage registration tax that is collected for the Heritage Trust Fund as required by KSA 79-3107b and is paid quarterly.

County Treasurers are also involved in the procedures for the Court of Tax Appeals (COTA) protests. The Register of Deeds and the Treasurer must establish procedures by which each understands the responsibilities and authority of the other.

When a plat is filed in the Register of Deeds office, a receipt must accompany it from the Treasurer's office showing that the taxes have been paid. This receipt must be provided prior to the recording of the plat.

The Treasurer's office also <sup>1/4</sup>preforms many duties for the Kansas Motor Vehicle Department.

## COUNTY APPRAISER

The Register of Deeds assists the County Appraiser by collecting the Real Estate Sales Validation Questionnaires. KSA 79-1437 The Register of Deeds is required to make sure that the questionnaire accompanies all deeds unless an exemption is stated on the face of the deed. A questionnaire must also accompany an affidavit of equitable interest. An exemption number cannot be used on an affidavit of equitable interest. A three part form is still used in some counties. The Register of Deeds keeps the top copy of the questionnaire. The other two copies are given to the Appraiser's office. The appraiser's office keeps one of these copies and the other one is given to PVD. Some counties only use the one part form. You must be approved by the state to use the one part form and in some counties the Appraiser's office may not want this procedure. In either case, it is important that the offices agree on what will be accommodating to them for the safe keeping and distribution of the forms.

The Register of Deeds is responsible for making sure that all questions are answered on the questionnaire. PVD has clearly stated the Register of Deeds' responsibility DOES NOT include verification of the data entered on the Real Estate Sales Validation Questionnaire. It is the responsibility of the Register of Deeds to review the document for completeness. The questionnaires are numbered by the Register of Deeds office according to a system established by PVD. The Appraiser's office or department that maintains the Orion information uses the questionnaire to reflect changes in ownership. The Orion system is used to prepare the valuation statements and maintain the tax roll.

Copies of recorded plats may be given to the Appraiser's office when the appraiser's office is responsible for assigning parcel ID numbers to the platted lots.