

GENERAL PROCESS AND PURPOSE OF RECORDING

The purpose of recording a document is to provide a traceable [chain of title](#) to the property (chain of title is evidence that a piece of property has validly passed down through the years from one owner to the next). Thus, recording a property interest in the public records effectually gives notice of ownership to the general public.

Recording is the act of putting a real estate document into the official records at the Clerk's or Comptroller's Office. The types of documents that are usually recorded affect title to real property including, but not limited to, a [deed](#), [mortgage](#), [easement](#), [judgment](#), lien, [foreclosure order](#), or notice of commencement of construction. These types of documents should be recorded in the county where the real estate is located.

Florida Statute 28.222 requires all records regarding real property to be maintained in one set of books and with a general alphabetical index, both direct and reverse, as to all documents. The Alachua Clerk of Court has maintained records prior to the passage of this statute and its required implementation in 1972. As a result, the beginning point for any search is to determine what method of recording and indexing the clerk maintained prior to the advent of the Official Record system. Such records can be viewed online at the clerk's Ancient Records page at www.alachuaclerk.org.

Recording helps to resolve disputes between multiple claimants (persons with competing claims to the property). For example:

- In terms of mortgages and liens, the instrument number, which reflects the date and time of recording, determines the priorities between competing liens. Priority refers to which lien is entitled to be paid first.
- In the case of competing deeds, the instrument number, which reflects the date and time of recording, determines priority of title between competing title holders.

Florida Statute 695.11 prioritizes recorded documents based on the instrument number. An instrument bearing the lower number has priority over any instrument bearing a higher number in the same series, which is especially useful when there are conflicting claims of ownership.

The recording process entails:

- taking or sending the document to the recorder's office which can also be done online, known as e-recording; and
- Paying a recording fee, which are determined by Florida Statutes
- documents are recorded in the order in which the customer presents them
- the document is given a number, book and page, as well as stamped with the date and time of recording
- The Alachua County Clerk's Office scans the document into their software
- In order to verify the recording process, e.g., that the documents are complete in the software process, the Alachua County Clerk's Office retains documents overnight
- Documents are returned by mail the next business day or customers can pick them up
- Deputy Clerks do not have legal experience and are not permitted to interpret content of documents nor provide legal advice

ADDITIONAL INFORMATION—DOCUMENTS THAT CAN BE RECORDED IN OFFICIAL RECORDS

The recording of documents is limited to the types of documents that are authorized by statute. If a document is not authorized or directed to be recorded by statute, the document cannot be recorded.

The types of documents ordinarily presented and authorized for recording include, but are not limited to: deeds, mortgages, plats, condominium declarations, condominium maps, UCC financing statements, government ordinances, right-of-way easements, maintenance maps, marriage licenses, military discharges, mobile home retirements, leases, claims of lien, homestead orders, orders authorizing sale of property, letters of administration, lis pendens, and notices of commencement.

Though the document is important to the person requesting recordation, their desire to have the document appear in the Official Records is not a sufficient legal basis for recording the document.

Florida Attorney General Opinion 90-69 (AGO 90-69) provides:

[Section] 28.222(1), F.S., provides that the clerk of the circuit court shall be "the recorder of all instruments that he may be required or authorized by law to record in the county where he is clerk." As such, the clerk is directed to record in the official records of the county the kind of instruments specifically enumerated in s. 28.222, F.S., and any other instruments or certified copies of instruments required or authorized by law to be recorded in the official records of the county.*

AGO 90-69 goes on to provide:

A legislative direction as to how a thing shall be done is, in effect, a prohibition against its being done in any other way.[8] Thus, the statutory direction that only those instruments required or authorized by law may be recorded constitutes a prohibition against recording other types of instruments. In addition it is the general rule that records must be made pursuant to law and not in disregard thereof. †

In some cases, a document may relate to a court proceeding, in which case, the document should be filed in the Court file, rather than recorded in the Official Record. In other cases, the document may be properly filed in some other governmental department, state or federal.

Statutes authorizing recording: 28.222, 28.223, 28.29, 55.10, 95.361, 177.141, 166.041, 319.261, 337.2735, 497.2765, 177.111, 177.131, 704.06, 713.13, 713.24, 713.97, 713.901, 718.105, 741.10, 903.26, Note that this list is representative, not comprehensive. There may be other statues authorizing recording.

* Footnote 7 of the opinion provides: For examples of other documents authorized by law to be recorded, *see, e.g.*, s. 28.29, F.S. (recording of orders and judgments of the courts in the official records); s. 55.10, F.S. (liens on real estate when a certified copy of a judgment, order, or decree is recorded in the official records); and s. 695.15, F.S. (recording conveyances lost by fire).

† Footnote 9 of AGO 90-96: Coplan Pipe and Supply Company v. McCann, 132 So.2d 632 (3 D.C.A. Fla., 1961); *and see* AGO 75-214 (a certified copy of an amendment to a certificate of incorporation changing the name of a corporation, which copy is received from the Department of State, is not authorized or required by law to be recorded in the official records of a county).