

CHAPTER 647

RESTORATION OF LOST RECORDS

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647.1 Action in rem.

Whenever the public records in the office of any county official in this state have been or shall hereafter be lost or destroyed in any material part, the said county on relation of said public officer or the owner of any real estate affected thereby, may bring an action in rem in equity in the district court of the state in and for the county in which said real estate is situated against all known and unknown persons, firms, or corporations that might have any interest in said real estate affected by said record, to have said lost or destroyed records restored in whole or in part.

Any number of parcels of land may be included in the same suit; and whenever said action is brought by the owner, the public official in whose office said lost or destroyed public records are required by law to be kept shall be made a defendant therein.

[S13, §4227-a; C24, 27, 31, 35, 39, §12258; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §647.1]

647.2 Proceedings.

The petition, notice, and decree in said action to restore any lost or destroyed records, and all proceedings in said suit, so far as the same relate to unknown defendants, shall conform to the statutes of this state applicable to actions against unknown defendants and unknown claimants; and all known defendants shall be served with notice in the time and manner now provided by law; and whenever said action is brought by the owner of said real estate, all clouds upon said title and defects therein and all adverse claims thereto may be adjudicated in the same suit and title quieted therein.

The provisions of rule of civil procedure 1.1011 shall be applicable to defendants served with original notice in such action by publication.

[S13, §4227-b; C24, 27, 31, 35, 39, §12259; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §647.2]

[P] Unknown defendants, §617.7

647.3 Proof required.

No judgment or decree restoring any lost or destroyed record in such action shall be entered by default, but the court must require proof of the facts alleged in reference thereto and the court shall make such finding of facts and decree as may be sustained by the evidence and may order such lost or destroyed record to be prepared by said public official as completely as the circumstances and proof will permit, and said record when so prepared shall be approved by the court and its approval endorsed thereon by the clerk.

[S13, §4227-c; C24, 27, 31, 35, 39, §12260; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §647.3]

647.4 Filing of restored records — effect.

All public records restored as provided by this chapter shall be filed, bound, and indexed the same as original records are required to be, and shall have the same force and effect as the original records before their loss or destruction.

[S13, §4227-d; C24, 27, 31, 35, 39, §12261; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §647.4]

647.5 Costs of restoration — how paid.

Whenever any public record is restored, as provided in this chapter, all court costs and necessary expenses of restoring the same shall be paid by the county to which said records

belong, whether said action is commenced or prosecuted by a county official or by the owner of any real estate authorized to maintain such action.

[SS15, §4227-e; C24, 27, 31, 35, 39, §**12262**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §647.5]