

IV. Lost Instruments

A. Jurisdiction and Venue

§12.11 An application regarding a lost deed, mortgage, or other instrument affecting title to real estate affecting land in two or more counties which was lost or destroyed after being recorded in one county, but before being recorded in all counties, may be filed in the probate court of the county where the real estate is situated and the instrument has not been recorded. MCL 565.321.

B. Application

§12.12 Any party or parties interested in a lost instrument may apply for an order to record a duly certified transcript of the instrument in the county where the instrument was not recorded. MCL 565.321. The required form and contents for a petition, discussed in §12.1, also apply to an application.

C. Notice of Hearing

§12.13 The probate judge must give notice of the application and of the time and place of hearing by publication for three successive weeks. MCL 565.321. See §12.2 regarding notice of hearing by publication. Note that while giving notice of hearing is generally the responsibility of the moving party per MCR 5.119(B), MCL 600.854 provides that notice is governed by supreme court rule *except as otherwise provided by law*.

D. Decision and Order

§12.14 The probate judge must issue an order authorizing a certified transcript of the instrument if it appears to the probate judge that the instrument was

- É duly executed,
- É legally recorded in another Michigan county, and
- É lost or destroyed before being recorded in this county.

MCL 565.321. The certified copy of the instrument and the order may be recorded in the office of the register of deeds of the county where the order was made, and that record has the same force and effect as the record of the original instrument would have had if it had been recorded before being lost or destroyed.