

1. In addition to any other fee for the issuance of a marriage license there is hereby imposed a fee of twenty dollars to be paid by the person applying for such license. Such fee shall be collected by the recorder of deeds at the time the marriage license is issued.

2. In addition to any other fee for a certified copy of a marriage license there is hereby imposed a fee of seven dollars to be paid by the person applying for such certified copy. Such fee shall be collected by the recorder of deeds at the time the certified copy is issued. The recorder of deeds shall have the authority to differentiate, for fee imposition purposes, between a certified copy and a mere photocopy copy.

Section 193.195 RSMo 1994 provides:

Every officer authorized to issue marriage licenses shall be paid a recording fee of two dollars for each marriage license filed and reported by him or her to the state registrar. The recording fee shall be paid by the applicant for the license and be collected together with the fee for the license.

When interpreting statutes, courts must ascertain the intent of the legislature from the language used, give effect to that intent if possible, and consider the words used in their plain and ordinary meaning. State ex rel. Riordan v. Dierker, 956 S.W.2d 258, 260 (Mo. banc 1997). There is normally a three day waiting period between the application for a license and the issuance thereof. See Section 451.040.2 RSMo 1994. Section 451.151 RSMo 1994 provides for the imposition of a twenty dollar fee "for the issuance of a marriage license". Section 451.150 RSMo 1994 provides that the recorder shall receive a ten dollar fee for recording in a separate book "all marriage licenses issued". Section 193.195 RSMo 1994 provides for the collection of a recording fee of two dollars for each marriage license filed and reported by "every officer authorized to issue marriage licenses". Section 455.205.1 RSMo 1999 Supp. permits a governing body of a county to impose a five dollar fee "upon the issuance of a marriage license" to provide financial assistance to shelters of domestic violence victims. Each of these statutory provisions refer to the issuance of the marriage license, not the receipt of the application for such a license. Therefore, the fees are to

The Honorable Jon Dolan
Page 3

be collected upon issuance of the license, or the recording of an issued license, or the copying of an issued license.

If the fees for recording the marriage license were collected before the issuance of the license, the recorder would be obligated to refund those fees if the license is not issued. If the applicant did not seek reimbursement, the provisions of unclaimed property law, Chapter 447 RSMo, would apply. However, because we have concluded that fees can only be collected on issued marriage licenses, there would be no reason to provide a mechanism for a refund.

CONCLUSION

The recorder of deeds is authorized to collect marriage license fees established by Section 451.150 RSMo 1994, Section 451.151 RSMo 1994, Section 193.195 RSMo 1994, and Section 455.205.1 RSMo 1999 Supp. at the time of the issuance of the license, not at the time of application for the license.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure