

CIRCUIT CLERK: Entitled to change of venue fees from other counties
in addition to salary, same being non-accountable fees.

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March 26, 1936.

Hon. S.N. West,
Clerk of Circuit Court,
Schuyler County,
Lancaster, Missouri.

Dear Sir:

This department is in receipt of your letter of
March 25 wherein you make the following inquiry:

"I am writing you in regard
to change of venue fees. Are
they accountable or non-
accountable?"

Section 11786, Laws of Missouri, 1933, p. 369, became
effective on January 1, 1935, and the last proviso thereof is
as follows:

"Provided, further, that,
until the expiration of their
present terms of office, the
persons holding the offices
of Circuit Clerks shall be
paid in the same manner and to
the same extent as now provided
by law."

From that date fees of the circuit clerk are to be and
have been governed by said Section 11786, the pertinent part of
which is as follows:

"The aggregate amount of fees
that any clerk of the Circuit
Court under Articles 2 and 3 of
this chapter shall be allowed to
retain for any one year's service
shall not in any case exceed the
amount hereinafter set out. In

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counties having a population of less than 7,500 persons, the sum of \$1,000.00; * * * Provided, that in any county wherein the clerk of the Circuit Court is ex-officio recorder of deeds, said offices shall be considered as one for the purpose of this section; provided, further, that clerks of the Circuit Court shall be allowed to retain, in addition to the fees allowed under this section, all fees earned by them in cases of change of venue from other counties; * * * "

Under Section 11814, Laws of Mo. 1933, p. 372, it is the duty of the Clerk of any court of record to collect fees, make certain reports and pay over excess fees. The pertinent part of said section is as follows:

"It shall be the duty of the clerks of all courts of record to charge and collect, in all cases, every fee accruing to their offices under the provisions of Sections 11785, 11787 and 11788, or of any other statute, except such fees as are chargeable to the county, and if such fees be not paid when due by the party liable for the payment, it shall be the duty of the clerk to forthwith issue a fee bill for same and place such fee bill in the hands of the sheriff of the proper county, who shall forthwith levy same on the persons liable therefor, or their sureties, as authorized and provided by section 11776.

CONCLUSION

It is the opinion of this department that there is no conflict between the statutes merely because Section 11814, supra, states that it shall be the duty of the Clerk to charge and collect all fees under Sections 11785, 11787 and 11788, or any other statute, as Sec. 11814 only compels the clerk to make a report of the fees.

March 26, 1936.

We are of the opinion that you as Circuit Clerk and Ex-officio Recorder of Deeds of Schuyler County are entitled to a salary of \$1,000 annually, your county having a population of less than 7500, and in addition thereto you are entitled to retain, as stated in Sec. 11786, supra, all change of venue fees earned from other counties, and as said change of venue fees are in addition to your salary, they, therefore, are not accountable fees.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney General.

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