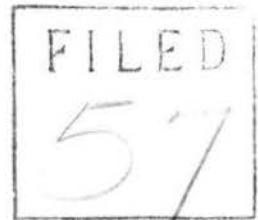


FEES: County Clerks

County clerk accountable to State Auditor for the fees earned for use of seal in witnessing signatures for Warehouse License.

December 20, 1937

12-23



Mr. Jewell Mayes,  
Commissioner of Agriculture,  
Jefferson City, Mo.

Dear Sir:

This office acknowledges your request dated December 17, 1937, for an official opinion pertaining to fees of the county clerk in connection with the application and issuance of a warehouse license, which request is as follows:

"Section 2 of House Bill 79, enacted by the Special Session of 1933, provides that the County Clerk of the County shall be paid a fee of 25¢ for each Farm Warehouse License which he issues. The Application for such license is to be under oath.

County Clerks have requested that it be determined whether or not they will be held accountable to the State Auditor for the usual fees for use of seal in the event they witness signatures on the applications for licenses.

In other words, is the County Clerk to witness the signature on an Application and issue the Warehouse License for one fee of 25¢, or for two fees of 25¢ each?"

Section 11781 R. S. Mo. 1929, sets out the fees which are allowed to the county clerk for services as such clerk. One of these fees is "for oath and certificate to affidavit, 25¢."

Section 11811, page 441 Laws of Missouri, 1937 requires the county clerk to make monthly returns of all fees received by him, from whom received and for what services.

Section 2 of House Bill 79, passed at the extra session of the Missouri Legislature in 1933, and found at page 168 Laws

of Missouri Extra Session provides that:

"Any person coming under the provisions of this act, and desiring to avail himself of the provisions thereof, shall file with the County Clerk of the county wherein said warehouse or warehouses are located an application for a license, stating the exact \*\*\* and if it shall appear from such application that said building or buildings are suitable structures in which to store wheat and other grains, the applicant shall receive from the County Clerk of the county a license \*\*\*\*\*. Such application shall be made under oath by the party or the agent of the party to whom the license is to be issued. The application shall be accompanied by a license fee of twenty-five cents, which shall be paid to the County Clerk."

Your inquiry goes to the question of whether or not the county clerk shall account to the State Auditor for the fee of twenty-five cents that they charge and collect in the event they witness the signature on the application for license. As the act does not provide that the application be signed before the county clerk, and therefore could be signed and sworn to before a notary public or any other person authorized to administer an oath, it would seem to the writer that the twenty-five cents charge mentioned in said Section 2 of the act applies only to the fee, the county clerk is entitled to for issuing the license.

Mr. Jewell Mayes

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December 20, 1937

CONCLUSION

It is, therefore, the opinion of this department that in the event the county clerk witnesses the signature of the applicant for a warehouse license, he is to charge the usual fee of twenty-five cents therefor and this fee is in addition to the twenty-five cents he is to charge for issuing the license and that both fees should be reported to the County Court as fees received as provided by 11810 R. S. No. 1929.

Respectfully submitted,

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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