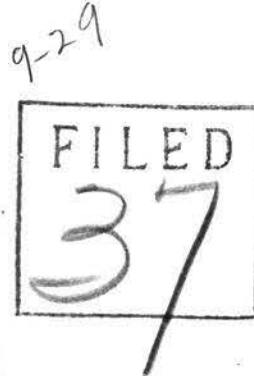


CHATTEL MORTGAGES:
MOTOR VEHICLES:

Recorder of deeds may make release of
chattel mortgage on his records without
the title to such mortgage being presented
to show such release.

September 28, 1939

Mr. E. T. Hardy
Clerk of the Circuit Court
and Ex-Officio Recorder of
Shelby County
Shelbyville, Missouri



Dear Sir:

This is in reply to yours of recent date wherein
you submit the following request:

"I would appreciate an opinion from
your office as to the procedure to
be followed by me as Ex-Officio
Recorder under Section 3097A, Laws
of Missouri 1939.

"A point which I don't understand
is contained in the second sentence
of this new act which reads as fol-
lows: 'When such Chattel Mortgage
is released it shall be the duty of
the Recorder to so show on the Certifi-
cate of Title'.

"My experience in the past has been
that many mortgagors never release
these mortgages and I am not clear
under this sentence as to whether or
not I would be liable if the mortgagor
did not produce his title to show the
release. Of course, it is to be pre-
sumed that the title would be produced
but in view of the fact that so many
do not make the release under the old
law it occurs to me that the same
condition would exist, although per-
haps not so frequently.

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"In short the point which I would like to be set clear on is this-- would there be any liability on me for failure to show the release on the Title if the title was not presented for such showing? Since the sentence in question does not specifically state 'that on the request of the mortgagor', I am wondering if such release could be made without presentation of the title and the release shown on it under the new law.

"I would appreciate an opinion on this point at your earliest convenience."

The section of the law to which you refer is 3097A, Laws of Missouri, 1939, page 278. I find that this department on September 1, 1939, by an opinion to the Recorder of Deeds of the City of St. Louis written by Mr. Burke, held that this section only applies to filing of chattel mortgages and not recording, and is directory and not mandatory that the mortgagee, or his assignee, shall have the certificate of title stamped or sealed by the recorder of deeds. I am enclosing a copy of this opinion for your information.

You seem to be in a quandry as to whether or not you would be authorized to release the chattel mortgage on your records if the party who is asking the release does not also have the certificate of title with him and request you to show such release on the title.

You will note that the first part of said Section 3097A says that it shall be the duty of the recorder of deeds to do certain things on the request of his mortgagee or assignee. I think from that part of the bill which provides: "* * * When such chattel mortgage is released, it shall be the duty of the recorder to so show on the certificate of title * * *," the recorder shall show such release if he is requested to by the mortgagee or his assignee. In other words, we do not think that this new act would prohibit the recorder from making the release of a chattel

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mortgage as he has always done, but if he is requested to show this release on the certificate of title, then he should do so.

CONCLUSION.

From the foregoing it is the opinion of this department that the recorder of deeds would incur no liability for his failure to show the release of a chattel mortgage on the certificate of title if it is not presented to him for such showing.

We are further of the opinion that if the mortgagor or mortgagee, or the person presenting mortgage for release, requests the recorder to show such release on the certificate of title, then it is his duty to show such release on the certificate of title.

Respectfully submitted

TYRE W. BURTON
Assistant Attorney General

APPROVED:

W. J. BURKE
(Acting) Attorney General

TWB:DA