

RECORDER OF : Must collect and account for fees
: for recording deeds and other
DEEDS. : instruments recorded by county.
:

September 14, 1944

FILE
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Miss Dollie Blake
Circuit Clerk and Ex-Officio Recorder
Worth County
Grant City, Missouri

Dear Miss Blake:

This will acknowledge the receipt of your letter of August 24th, requesting an opinion from this office, which is as follows:

"May I have your opinion as to whether or not the County should pay recording fees to the Recorder for Right-of-Way deeds, Trustee's Deeds, ect., that they file for record in that office.

"Our County Judges take the position that there is no need of paying these fees, since the County Recorder turns all fees to the County Clerk anyway at the end of each month, and it makes a bit of added bookkeeping for them to pay out these fees.

"From the Recorder's standpoint of view this makes an item on the daily record and price therefor, but when the price is not received, it makes totals needing amendment.

"Please give me your opinion as to whether or not the fees should actually be paid in hand to the Recorder."

Section 13408 R. S. Mo., 1939 provides:

"The clerks of the circuit courts of this state shall receive for their services annually the following sum: In counties having a population of less than seven thousand five hundred persons the sum of twelve hundred (\$1200) dollars; provided that in any county wherein

the clerk of the circuit court is ex-officio recorder of deeds, said officers shall be considered as one for the purposes of this section: Provided, it shall be the duty of the circuit clerk, who is ex-officio recorder of deeds to charge and collect for the county in all cases every fee accruing to his office as such recorder of deeds and to which he may be entitled under the provisions of Sec. 13426 or any other statute. * * * (Underscoring ours).

Sec. 13426, R. S. Mo., 1939, provides:

"Recorders shall be allowed fees for their services as follows:
 For recording every deed of instrument for every hundred words..... \$0.10
 In addition to the above fee for recording deeds, they shall be allowed for recording every such instrument relating to real estate, a fee of ten cents, as a compensation for making and preserving direct and inverted indexes to every book containing deeds affecting real estate.
 For every certificate and seal..... .50
 For recording a plat of survey, if not more than six courses..... .40
 For every course above six of the same .02
 For copies of plats, if not more than six courses40
 For every course above six02.

(R. S. 1929, Sec. 11804.)"

It must be noted that Sec. 13426 provides a specified fee for the recorder for recording every deed of instrument. This would clearly include deeds recorded by the county. True, in view of the provisions of Sec. 13408 your collection of these fees would make no difference in your salary and you would have to pay them back to the County, however, the county might conceivably pay for these deeds out of a particular fund and when you paid the money back it would go into the general fund from which your salary and other legitimate county expenses are paid. Also it should be pointed out that to hold that Sec. 13426 did not require counties to pay these fees would be a holding that would materially effect the compensation of those recorders who are dependent on fees, such as those

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who come under the provisions of Sec. 13187 R. S. Mo., 1939. This would work a hardship on them, clearly not contemplated by the law.

CONCLUSION.

It is therefore the opinion of this office that a recorder of deeds must collect and account for fees for instruments recorded by the county, even though he is a salaried officer.

APPROVED:

Respectfully submitted

ROY MCKITTRICK
Attorney General
RJR:LeC

ROBERT J. FLANAGAN
Assistant Attorney General