

RECORDERS:  
THIRD CLASS  
COUNTIES:

If the recorder of a third class county does not earn the sum of \$4,000.00 in fees in 1953, he is not entitled to the total sum, or to any portion of the sum, of \$750.00, provided in Section 59.250 S. B. 42 of the 67th General Assembly.

February 5, 1954

Honorable W. C. Frank  
Prosecuting Attorney  
Adair County  
Kirksville, Missouri

Dear Sir:

In your recent request for an official opinion you state:

"I am today in receipt of your report and digest of opinions Vol. XI, No. 4, January 28, 1954, and am particularly interested in opinion No. 14-54 regarding the compensation of recorders in a Class III county.

"Our recorder did not earn the sum of \$4,000.00 for the year 1953 in the County Court. And the County Court refused to pro-rate the \$750.00 allowed the recorder under Section 59.250 RSMo 1949, for performance of the duties imposed on him as provided under Section 59.365 R.S.Mo. 1949 for the reason that he did not earn \$4750.00. The question is, if the recorder does not earn \$4000.00, is he entitled to the compensation of \$750.00 per year as provided by Section 59.250 R.S.Mo. 1949 for the performance of the duties as set out in Sec. 59.365 R.S.Mo, 1949.

"Possibly the above opinion referred to in its entirety, touches this point, or possibly you have an opinion on this point, but if not, I would appreciate an opinion from your office advising whether or not a recorder in a county of Class III who earns less than \$4000.00 is entitled to the \$750.00 as provided in Sec. 59.250 R.S.Mo. 1949."

Section 59.250 RSMo 1949, to which you refer, reads:

"1. The recorder of deeds in counties of the third class, wherein there is a separate circuit clerk and recorder, shall keep a full, true and faithful account of all fees of every kind received. He shall make a report thereof each year to the county court.



Honorable W. C. Frank

"2. All other fees over and above the sum of four thousand seven hundred fifty dollars for each year of his official term, seven hundred fifty dollars of which shall be compensation for the performance of duties imposed by section 59.365 and four thousand dollars for other duties imposed by law, shall be paid into the county treasury after paying out of such fees and emoluments such amounts for deputies and assistants in his office as the county court may deem necessary."

From the above it seems to us to be plain that the meaning of the above section is that the recorder is allowed to retain \$4750.00 in fees, if he collects that much in fees, and that all fees over that amount are by him to be turned in to the county treasury. If, for example, the amount collected is \$2450.00, that would be the amount retained by the recorder. If, as in your situation, the amount collected in fees is under \$4000.00, then we do not believe that the recorder would be entitled to any part of the \$750.00.

#### CONCLUSION

It is the opinion of this department that, if the recorder of a third class county does not receive the sum of \$4000.00 in fees in 1953, he is not entitled to any portion of the sum of \$750.00 provided in Section 59.250, S. B. 42 of the 67th General Assembly.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Very truly yours,

HPW/ld

JOHN M. DALTON  
Attorney General