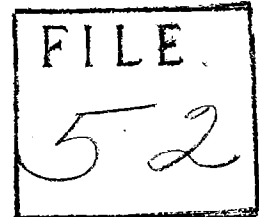


RECORDER OF DEEDS: A fee may not be charged by a Recorder of Deeds for recording a discharge of a soldier in military service.

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October 25, 1941

Mr. Henry G. LePage
Recorder of Deeds
Cole County
Jefferson City, Missouri



Dear Mr. LePage:

We desire to acknowledge receipt of your request of October 23, 1941, for an opinion on the question of the duty of the Recorder of Deeds to require payment of a fee for recording a discharge of a soldier in military service, which is as follows:

"I will appreciate an opinion from you in answer to the following questions:

"Is there any provision in the Statutes providing for recording without a fee the discharge of a soldier from the United States Army or Navy?

"Is there any provision in the Statutes providing for recording without a fee the discharge of any Veteran of the World War or any previous war in which soldiers or sailors of this country participated?"

We are unable to find any statute, Federal or State, providing for a fee to be charged by a County Recorder of Deeds for recording a discharge of a soldier in military service. However, Section 15077, Revised Statutes of Missouri, 1939, does provide:

"Whenever a certified copy or copies of any public record in the state of Missouri are required to perfect the claim of any soldier,

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sailor or marine, in service or honorably discharged, or any dependent of such soldier, sailor or marine, for a United States pension, or any other claim upon the government of the United States, they shall, upon request be furnished by the custodian of such records without any fee or compensation therefor."

Absent statutory provision for the charge of a fee for recording an instrument, a Recorder may not make such charge.

In passing on this question the court, in the case of *Nodaway County v. Kidder*, 129 S. W. (2d) 857, 860, said:

"The general rule is that the rendition of services by a public officer is deemed to be gratuitous, unless a compensation therefor is provided by statute. If the statute provides compensation in a particular mode or manner, then the officer is confined to that manner and is entitled to no other or further compensation or to any different mode of securing same. Such statutes, too must be strictly construed as against the officer. *State ex rel. Evans v. Gordon*, 245 Mo. 12, 28, 149 S. W. 638; *King v. Riverland Levee Dist.*, 218 Mo. App. 490, 493, 279 S. W. 195, 196; *State ex rel. Wedeking v. McCracken*, 60 Mo. App. 650, 656.

"It is well established that a public officer claiming compensation for official duties performed must point out the statute authorizing such payment. *State ex rel. Duder v. Hackmann*, 305 Mo. 342, 265 S. W. 532, 534; *State ex rel. Linn County v. Adams*, 172 Mo. 1, 7, 72 S. W. 655; *Williams v. Charition County*, 85 Mo. 645."

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CONCLUSION

Therefore, it is the opinion of this Department that a fee may not be charged by a County Recorder of Deeds for recording a discharge of a soldier in military service.

Respectfully submitted,

S. V. MEDLING
Assistant Attorney General.

APPROVED:

VANCE C. THURLO
(Acting) Attorney General

SVM/mc