

County Clerk and Recorder—Fees of County Clerk and Recorder for Marginal Satisfaction and Regular Satisfaction of Chattel Mortgage Accompanied by Certificate—Satisfaction of Mortgage, Fees for Filing.

The fee to be charged by the County Clerk and Recorder for a marginal satisfaction of a chattel mortgage is twenty-five cents and for filing a written release or satisfaction of mortgage a fee of fifty cents should be charged.

June 27, 1917.

Hon. H. S. Magraw,
State Examiner,
Helena, Montana.

Dear Sir.

I am in receipt of a letter of the 25th inst. from Mr. Geo. G. Grant, Second Assistant State Examiner, submitting the following for my opinion:

“Will you please advise me as to the correct fee to be charged by the County Clerk and Recorder;

- (a) For marginal satisfaction of chattel mortgage.
- (b) For regular satisfactions of chattel mortgage accompanied by certificate?”

Those portions of Section 3168, Revised Codes, 1907, as amended by Chapter 117, Session Laws of 1911 (pp. 251-252), fixing the fees of the county clerk and recorder, pertinent to this subject, are as follows:

“For filing and recording each instrument in writing allowed by law to be recorded, except as hereinafter provided, for the first folio, thirty cents; for each subsequent folio or fraction thereof, fifteen cents; for each entry in index, ten cents; for certificate that such instrument has been filed and recorded with seal affixed, fifty cents.”

“For each entry of discharge or satisfaction of mortgage, lien or other instrument on the margin of the record thereof, or upon the original instrument, and noting same in index, twenty-five cents.”

"For filing, or recording, or indexing, any other instrument not herein expressly provided for, the same as hereinbefore provided for a similar service."

It will be seen that a fee of twenty-five cents is fixed for the entry of discharge or satisfaction of a mortgage on the margin of the record, or upon the original instrument and noting the same in index. If the mortgage be a real estate mortgage it is discharged or satisfied by writing the release on the margin of the record, but if a chattel mortgage, then, such mortgage not being recorded but being filed and the original retained on file, it is discharged or satisfied by writing the release on the original instrument. The fee for such a release is twenty-five cents.

There seems to be no express fee fixed for filing a written satisfaction of a chattel mortgage, and such being the case, the last provision of the section will govern if the section fixes a fee for a similar service.

By examination of this section I find that a fee of fifty cents is fixed for filing and indexing each affidavit or renewal of a chattel mortgage. This service is similar to that of releasing a chattel mortgage by written release or satisfaction. In the case of a renewal the affidavit is filed, but not recorded, and is attached to the original chattel mortgage. In the case of a written release or satisfaction the release is filed, but not recorded, and attached to the original chattel mortgage.

I am therefore of the opinion that for filing a written release or satisfaction of mortgage a fee of fifty cents should be charged.

Respectfully,

S. C. FORD,

Attorney General.