

should file his return on foreclosure of mortgages covering motor vehicles, and what fee is to be paid therefor.

Chapter 159, Section 4 (b), Laws of 1933 provides that a chattel mortgage on motor vehicles is excepted from the provisions of 8278 and 8280 R. C. M. 1921. Said Section 8278 provides for the filing of a chattel mortgage in the office of the clerk and recorder of the county where the property was situated at the time of the execution of the mortgage. Section 8280 provides for the filing of a renewal affidavit with the clerk and recorder. Section 4 (c) of said Chapter 159 requires that a mortgagee holding a mortgage on a motor vehicle shall deposit with the registrar of motor vehicles the original mortgage, or a certified copy thereof, and that the mortgagee shall then be registered as the legal owner. It also provides that such registration and deposit shall be constructive notice of the said mortgage and its contents of subsequent purchasers and encumbrancers. Section 4 (d) of said Chapter 159 provides that upon default under a chattel mortgage covering a motor vehicle, the mortgagee may foreclose as in the case of other personal property upon delivery to the sheriff of the original instrument or a certified copy thereof.

Section 8288 R. C. M. 1921 provides that after the sale on foreclosure of any mortgaged personal property the person making the sale shall make out in writing a full report and "shall file the same in the office of the county clerk and recorder where the mortgage is filed." Obviously it is impossible to comply with this statute when mortgages of motor vehicles are no longer filed with clerks and recorders.

The question remains, should such return be filed with the registrar of motor vehicles? I do not find any provision where the legislature has so declared. Possibly this was an oversight. Possibly the legislature felt that the registration of the motor vehicle by the purchaser at sheriff's sale would suffice. It is useless, however, to speculate. In the absence of a specific requirement enacted by the legislature, I am forced to the conclusion that no such return is required.

**Opinion No. 113.**

**Sheriff—Motor Vehicles—Mortgage,  
Filing of Return—Foreclosure of.**

HELD: The law does not provide any place where the sheriff must file his return on foreclosure of mortgages covering motor vehicles.

June 7, 1935.

Mr. C. F. Holt  
County Attorney  
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You have requested the opinion of this office as to where the sheriff