

Opinion No. 146.**Secretary of State—Corporations—
Housing Authority, No Fee For Filing
Articles of Incorporation—Fees.**

HELD: No fee should be charged by the Secretary of State for the filing, recording and issuing of certificate of incorporation of the Billings Housing Authority.

July 24, 1935.

Hon. Sam W. Mitchell
Secretary of State
The Capitol

You have submitted the following for my opinion:

"I have had presented to me for filing and issuance of a certificate of incorporation articles of Billings Housing Authority, created under Chapter 140, Laws of 1935, and tendered to my office under Section 4 of said Act.

"From an examination of the Act I find no reference to the fees required to be paid by this corporation

to my office for services performed in filing, recording and issuance of certificate of incorporation. I, therefore, respectfully request your opinion as to whether the fee to be charged by me is that set forth in paragraphs 3 and 4 of Chapter 50, Laws of 1935, Section 5 thereof, Section 18 of said chapter, or whether any fee whatever is to be charged."

A reading of Chapter 140, Laws of 1935, discloses that it is emergency legislation for the purpose of not only securing employment for the unemployed but also for the purpose of removing slum conditions in cities. Paragraph 6, subdivision 2 of Section 4 of said chapter, page 259, provides: "When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners, a certificate of incorporation pursuant to this Act, under the seal of the State, and shall record the same with the application."

In the absence of any express provision for a fee for filing, recording and issuance of certificate of incorporation, and in view of the nature and purpose of the Act, and in view of the fact that the corporation shall constitute a public body, it is my opinion that the legislature did not intend that any fee should be charged for the filing, recording and issuance of certificate of incorporation.

Note: See Vol. 14, Official Opinions, 338.