

Where a satisfaction of chattel mortgage is drawn to cover several chattel mortgages a filing fee of 50c should be charged for each chattel mortgage satisfied as it requires separate indexing and service.

The proper fee for the satisfaction of a chattel mortgage by the filing of an affidavit is 50c.

The proper fee for the satisfaction of a chattel mortgage on the margin thereof is 25c.

November 10, 1939.

Hon. W. A. Brown
State Examiner
The Capitol

Dear Mr. Brown:

You have submitted the following:

"There seems to be some doubt as to the proper fees to be charged by county clerks for certain services, and in order to clarify this matter we would thank you for your opinion on the following questions:

"(1) In several instances that an assignment has been embodied in the form of a chattel mortgage and in some instances the party filing same insists that the fee should be fifty cents, it would seem that the filing of the assignment thereof embodied in the mortgage itself necessitates the same service as it would if filed separately and that an additional fifty cents should be charged for the assignment. Is this contention correct?

"(2) We find many instances where a satisfaction of chattel mortgage has been drawn covering several individual chattel mortgages, and in some instances chattels of different parties. If a document of this kind is filed covering a satisfaction by affidavit of ten chattel mortgages, what would you consider the proper fee to be? The service rendered would be the same with reference to each satisfaction as though they had been filed separately, and for that reason, we believe the fee should be fifty cents for each mortgage satisfied.

"(3) What is the proper fee for the satisfaction of chattel mortgage by the filing of an affidavit?

Opinion No. 164.

County Clerk and Recorder—Fees—Chattel Mortgage and Assignment of Chattel Mortgage Combined—Satisfaction of Several Chattel Mortgages in One Instrument—Satisfaction of Chattel Mortgage by Affidavit—Satisfaction of Chattel Mortgage on Margin.

HELD: Where a chattel mortgage and an assignment of a chattel mortgage are combined in one paper the county clerk and recorder should charge 50c for the filing of each.

"(4) What is the proper fee for the satisfaction of a chattel mortgage on the margin thereof?"

1. As we understand your question the chattel mortgage and the assignment thereof are embodied in one instrument. Section 4917 provides for the following fees to be collected by the county clerk:

"For filing and indexing each chattel mortgage, a writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, fifty cents.
* * *

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

Since the chattel mortgage and the assignment thereof each requires separate service and indexing, it is my opinion that each requires a separate filing fee of fifty cents. We do not think the joining of the two under one cover or in one paper defeats the purpose or intent of the statute to charge a separate fee for each instrument. Under the provisions of the statute the proper charge for filing an assignment of a chattel mortgage is fifty cents. The fact that it is attached to a chattel mortgage would not alter the situation.

2. We are of the opinion that your answer to this question is correct. Section 4917 Id., states:

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

Since separate entries are required for the satisfaction of each chattel mortgage, separate fees should be charged for each entry as it seems to be the express intent of the statute to charge for the service rendered, that is, for each entry.

3. Section 4917 Id., specifies that the filing fee shall be fifty cents for filing and indexing any instrument required by law to be filed and indexed. See quotations under our answer to question No. 1 above. For this reason the

proper fee for the satisfaction of chattel mortgage by the filing of an affidavit is fifty cents.

4. See No. 2 herein. The statute specifically fixes twenty-five cents as the proper fee for the satisfaction of a mortgage on the margin thereof. The word "mortgage" is a general term and is broad enough to cover both real and chattel mortgages.

The opinions of the Attorney General found in Volume 5, Opinions of the Attorney General, 444 and 640, and in Volume 7, 109, are to the same effect, being based on provisions of the law which remain unchanged.