

No. 322

**COUNTY CLERK—FILING FEES—DISCHARGE—CERTIFIED COPIES—FEES—SOLDIERS—SAILORS—MARINES—VETERANS**

- Held: 1. County clerk shall record certificate of discharge of honorably discharged soldiers, sailors and marines without charge.  
2. County clerk shall issue, without charge, certified copies of recorded certificates of discharge to the United States Veterans' Bureau or to the applicant or to any person acting in his behalf, when said Bureau requires same in determining eligibility of applicant.  
3. When a copy or copies of a recorded certificate of discharge are furnished to the county clerk for certification, the clerk shall compare the copy or copies with the recorded discharge, without charge, and may charge only for his certificate and seal the fee of fifty cents for each such copy.

December 19, 1941.

Honorable E. M. Birely  
Adjutant General of Montana  
Capitol Building  
Helena, Montana

Dear General Birley:

You have asked for my opinion as to whether or not the county clerk may issue a certified copy or copies of a recorded certificate of discharge of any honorably discharged soldier, sailor or marine, without collecting a fee for said certified copy or copies.

By Section 5654, Revised Codes of Montana, 1935, the legislature has provided for the recording of such certificate of discharge, without charge, as follows:

"It shall be the duty of the county clerk of any county of the state of Montana to record, without charge, in a book kept for that purpose, the certificate of discharge of any honorably discharged soldier, sailor, or marine who served with the United States forces in any of said wars."

Section 5654.14, Revised Codes of Montana, 1935, provides that, when the United States Veterans' Bureau requires any public record in its determination of benefits made available by such bureau, such records shall be furnished, without charge, as follows:

"Whenever a copy of any public record is required by the bureau to be used in determining the eligibility of any person to participate in benefits made available by such bureau, the official charged with the custody of such public record shall without charge provide the applicant for such benefits or any person acting on his behalf or the representative of such bureau with a certified copy of such record."

I find no other statutory provisions applicable to certified copies of discharges to be furnished without the fee. However, Section 4917, Revised Codes of Montana, 1935, as amended by Chapter 87, Laws of 1941, provides in part that the fees of county clerks, which must be charged and collected for the use of their respective counties, are as follows:

"For a copy of any record or paper, for each folio, fifteen cents (15¢) and for each certification with seal affixed, fifty cents (50¢); provided, that in all cases where copies of any record or paper are to be certified by the county clerk and such copy is furnished to said clerk for certification, said clerk shall not make a charge nor receive a fee for the comparison of such copy, other than the fee of fifty cents (50¢) for his certificate and seal."

Therefore, it is my opinion that it is the duty of the county clerk of any county in Montana to record, without charge, the certificate of discharge of any honorably discharged soldier, sailor or marine, and that such county clerk shall furnish a certified copy of such discharge without charge to the United States Veterans' Bureau or to the applicant or to anyone in his behalf, whenever said Bureau requires the same in determining the eligibility of any applicant to participate in the benefits made available by such bureau. I find no other authorization for the county clerk to issue certified copies of discharges without charging the statutory fee.

It is further my opinion that, where a copy or copies of any recorded discharge are furnished to the county clerk for certification, it is the duty of the county clerk to compare such copy or copies, without charge, and to certify and attach his seal thereto and his fee therefor shall be fifty cents (50¢) for his certificate and seal.

Sincerely yours,

JOHN W. BONNER  
Attorney General