

OPINION
51-33

April 11, 1951 (OPINION)

COUNTIES

RE: Duty of Register of Deeds in Making Chattel and Real Estate Abst

Your letter of the ninth instant in which you request our opinion as to the duties of registers of deeds in the matter of the making of chattel and real estate abstracts has been received.

By section 11-1801 it is made the duty of the register of deeds to make either a chattel abstract or to continue a real estate abstract whenever it is requested that he do so, and the applicant pays the statutory fee therefor.

Section 11-1805 provides the fees to be charged as follows:

- "4. For making a certified abstract of title to real property for the first deed or transfer, one dollar, and for each additional deed or transfer, twenty-five cents.
- "5. For making a chattel mortgage abstract, for the first entry, one dollar, and for each additional entry, ten cents."

Therefore, for making a chattel abstract or making or continuing a real estate abstract, the register must charge the fees thus fixed. By section 11-1806 the register is required to keep a fee book and to enter therein a record of each and every fee received by him for official services for which fees are fixed by section 11-1805. These fees are to be accounted for to the county auditor periodically as required by section 11-1806, and a failure so to do is a misdemeanor. This report must, of course, include fees collected for chattel and real estate abstracts.

Section 11-1014 provides that all such fees must be accounted for and paid over monthly to the county treasurer. This sections excepts such fees as the law clearly permits the register of deeds to retain for himself, but no fee provided for by section 11-1805 is within this exception.

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