

**Opinion No. 17-1926**

January 22, 1917

**BY:** R. H. CREWS, Assistant Attorney General

**TO:** Mr. Frank Harris, Cashier First National Bank, Albuquerque, New Mexico.

County Clerk Under no Obligation to Return Release of Chattel Mortgage.

**OPINION**

Your favor of the 19th instant relative to the difficulty you are having with the County Clerk of Socorro County in obtaining the recorded release of the chattel mortgage, has been received.

The clerk was correct in his statement that Mr. Clancy had rendered an opinion that county clerks should retain in their office either the original chattel mortgage or a true copy thereof although the instrument or copy had been both filed and recorded. This, we believe, is a correct statement of the law relative to chattel mortgages. Chapter 71 of 1915 Session Laws of this State which is our chattel mortgage act, makes no provision whatever for the recording of the release of a chattel mortgage. Section 7 of that act, which deals with the release or satisfaction of a chattel mortgage, provides merely for the filing of the satisfaction or release and no provision whatever is made for the withdrawal of such satisfaction or release. It is provided, however, in that section that when the satisfaction is filed the County Clerk may deliver to the mortgagor, the chattel mortgage or other instrument of writing covered thereby.

You will notice that no provision is made for the delivery of the satisfaction or release so it would seem from the language of the whole act that it was intended that the clerk should retain the release for his own safety should any dispute arise in the future as to whether the chattel mortgage had really been satisfied. We are, therefore, of the opinion that the County Clerk is under no obligation to return the release or satisfaction. If the mortgagor desires he may make demand on the County Clerk for the return of the mortgage and the Clerk is compelled to deliver it. This, it seems, should be sufficient satisfaction for the mortgagor.