

Opinion No. 21-2803

February 3, 1921

BY: A. M. EDWARDS, Assistant Attorney General

TO: Mr. Cosme R. Garcia, County Clerk, Mora County, Mora, New Mexico.

County Clerk's Fees for Recording Instruments.

OPINION

{*20} In reply to your letter of February 1st, in which you refer to the opinion given you at the request of Mr. J. Frank Curns of Wagon {*21} Mound, construing Section 4783 of the 1915 Compilation, we have this further to say:

Section 4781 provides that it shall be the duty of the county clerk to endorse immediately on a document offered for recording the day, month, and year in which he received it, and when this is done the said document shall be considered as recorded from that date, and that this shall be sufficient notice to the public of the contents thereof.

The last sentence of section 4784 provides "In all cases the certificates of record in the record book and on the instrument are included as part of the recording." There is no requirement in law so far as we have been able to find that it shall be the duty of the recorder to attach his seal to documents recorded.

In recording any instrument not enumerated in section 4784 the fees to be charged by the county clerk are at the rate of ten cents for every hundred words; and the certificates of record in the record book and on the instruments are included as part of the recording.

The words which you underscore from section 4783, "**and shall further receive for certificate and seal to documents recorded, one dollar,**" evidently refer to the fee to be charged by the recorder in event he certifies to the recording of the instrument and attaches his seal to such certificate. This would ordinarily be done at the request of the person who offers the instrument for record, or some person who desires a certified copy of the record.

January 28, 1921.

Hon. J. Frank Curns,

Wagon Mound, New Mexico.

Dear Sir:

Referring to the letter of Cosme R. Garcia, county clerk of Mora county, addressed to you, in reference to the fee for the filing in his offic of a **lis pendens**.

The fees to be charged by a county clerk for the recording of such instruments are provided for in section 4783 of the 1915 Codification. The fee of \$ 1.50 to be charged for recording certain instruments applies only to the instruments specifically named in section 4784.

This office has held many times that the fee to be charged for the recording of any instrument not enumerated in section 4784 shall be at the rate of 10 cents for every hundred words.

Yours very truly,

A. M. EDWARDS,

Assistant Attorney General.