

Opinion No. [29-01]

March 21, 1929

BY: J. A. MILLER, Assistant Attorney General

TO: Stimson Computing Scale Co., F. E. Sanford, Attorney, Louisville, Ky.

ACKNOWLEDGMENTS -- necessary for recording.

OPINION

I have before me your letter of March 18, in re Landrus and Amick Co., and enclosing a copy of your contract with Landrus and Amick Co. You request to be advised with respect to the requirements of New Mexico statute as to the acknowledgment required to entitle such an instrument to be recorded.

Our statute relative to acknowledgments, in so far as applicable to an instrument of this class, is Sec. 4795 of the Codification of 1915, and is as follows:

"Any instrument of writing, duly acknowledged and certified to, shall be entitled to be filed and placed on record. Any instrument of writing, not so acknowledged and certified to, shall not be entitled to be filed and placed of record, nor considered of record, though so entered * * *."

The lack of acknowledgment, of course, does not render the contract illegal or void, but simply goes to the right of recording. Under this section it has been held that a chattel mortgage not properly acknowledged is not entitled to record, and if recorded, gives no constructive notice.