

Opinion No. 44-4541

July 1, 1944

BY: EDWARD P. CHASE, Attorney General

TO: Mrs. Cecilia Tafoya Cleveland, Secretary of State, Santa Fe, New Mexico

We are in receipt of your letter of June 28, 1944, in which you ask our opinion as to what fee should be charged for recording the continuation certificates on official bonds, and on collection agency bonds.

Section 51-1801 of the 1941 Compilation requires each collection agency to file with the Secretary of State a surety bond in the sum of \$ 2,500.00.

Section 10-206 of the 1941 Compilation requires that all bonds of state and district officers shall be recorded in a record kept for that purpose.

Section 10-207 of the 1941 Compilation provides that after such bonds have been recorded they shall be filed and kept in the office of the Secretary of State.

Section 3-106 of the 1941 Compilation, providing the fees to be collected by the Secretary of State provides, in part, as follows:

"For recording all official and bank depository bonds, when the contents do not exceed 15 folios of 100 words each, \$ 2.50; and 15c for each additional folio of 100 words over 15 folios.

"For recording and indexing of all other papers than official bonds, 25c for the first folio of 100 words, and 15c for each additional folio."

Under Section 3-106 it is seen that, insofar as is material here there are two fees which may be charged, one fee for recording official bonds, and the other for recording any other instrument than official bonds. A collection agency bond is not an official bond, nor are continuation certificates. A continuation certificate is an instrument to continue the life of a bond executed at some prior time.

In view of these facts, it is my opinion that the \$ 2.50 flat fee for recording official bonds should not be charged for the recording of either collection agency bonds or continuation certificates, but that the other charge of 25c for the first folio and 15c for each additional folio should be charged. No opinion is expressed herein as to whether it is necessary to record collection agency bonds or continuation certificates or whether the use of a continuation certificate or an official bond is proffered.

By ROBERT W. WARD,

Asst. Atty. General