

Opinion No. 65-234

December 8, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Roy G. Hill, Assistant Attorney General

TO: Patrick F. Hanagan, District Attorney, Fifth Judicial District, County Court House, Roswell, New Mexico

QUESTION

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In those counties where the photocopying process is used for recording instruments, is the recording fee for recording Release of Oil and Gas Leases \$ 1.75 for the first page and \$ 1.00 for each additional page of the Release?

CONCLUSION

Yes.

OPINION

{*383} ANALYSIS

In Attorney General Opinion No. 5808 dated September 1, 1954 this office ruled that a county clerk should charge a fee for each and every release of an oil and gas lease even if several were included in the same form. That opinion was based on Section 1, Chapter 51, Laws 1953. That Law contained no reference to photocopied instruments. We do not question the correctness of that opinion. However, the recording fee Statute, Section 71-1-10, N.M.S.A., 1953 Compilation as presently written makes Opinion No. 5808 obsolete.

Section 71-1-10, *supra*, begins with these words:

"Recording fees. -- County clerks shall receive for recording the following fees where the instrument is not photocopied:"

Included in the list of fees following this language is the charge for a release of an oil and gas lease. Below this list is the following paragraph:

"For each instrument recorded, and where the instrument is photocopied, the recording fee shall be one dollar seventy-five (\$ 1.75) for the first page and one dollar (\$ 1.00) for each additional page or portion thereof."

Throughout the rest of the Section, there are other references to photocopied instruments which make it clear that such instruments regardless of their contents are subject only to the charge of one dollar and seventy-five cents (\$ 1.75) for the first page and one dollar (\$ 1.00) for each additional page or portion thereof; for instance, photocopied instruments are not subject to the extra word charge nor to the charge for a longer than standard form. We therefore conclude that the answer to your question is a definite "yes".