

**Opinion No. 14-1159**

February 11, 1914

**BY:** H. S. CLANCY, Assistant Attorney General

**TO:** A. H. Harvey, County Clerk, Carrizozo, New Mexico.

**CHATTEL MORTGAGES.**

Fees to be charged by county clerk for renewal of chattel mortgage.

**OPINION**

{\*12} I am in receipt of your letter of the 7th inst., in which you ask for the opinion of this office as to what is the correct fee to be charged by a county clerk "for recording renewal chattel mortgage, and satisfactions of mortgage." You state that you have been charging 50c for the short forms of satisfactions and \$ 1.00 for renewals. This is properly a matter about which you should ask the District Attorney for an opinion, but I take it that Mr. Hamilton will not be offended at my replying to your letter, in view of the fact that he is, as I understand, extremely busy with official duties in court.

Section 2361 of the Compiled Laws of 1897, distinctly provides that there shall be charged for recording and indexing an affidavit of renewal of a chattel mortgage, the sum of 50c. So far as the satisfaction of a chattel mortgage is concerned, it does not appear that the clerk is entitled to any fee whatever in connection therewith. Section 2366, Compiled Laws of 1897, makes it the duty of the mortgagee, his assignee or personal representative, to enter such satisfaction or to cause such satisfaction to be entered of record under the head of "Remarks" on the record of mortgages, and should he neglect or refuse to enter such satisfaction, he is liable in damages to the mortgagor. You will see by the language of this section that no duty whatever is imposed upon the county clerk to enter a satisfaction of a chattel mortgage, and for that reason no fee is provided which he can demand.

If you will carefully read the sections of the law above referred to, I believe that you will agree that what I have stated in connection thereof is correct.