

Opinion No. 14-1331

September 19, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Hon. Howell Earnest, Traveling Auditor, Santa Fe, New Mexico.

TAX CERTIFICATES.

Duty of county clerk to record tax sale certificates.

OPINION

{*192} I have received your letter of yesterday in which you ask me, in substance, whether it is the duty of the county clerk to record all Tax Sale Certificates issued by the Treasurer, whether to individuals {*193} or the county, and whether he must collect fees for these services and in what amount.

Under the last act of the legislature on this subject, which is published as Chapter 84 of the Laws of 1913, there are two different lines of procedure indicated with regard to tax sale certificates, one being as to those issued to individual purchasers, and the other as to those where the property is struck off to the county. Under Section 38, it seems to be required that a certificate issued to an individual purchaser must be recorded in the office of the County Clerk, and it is evidently to the interest of the purchaser that it should be recorded as soon as possible so that the three years' term of redemption, which runs from the date of recording, may begin.

As to certificates where the property is struck off to the county, Section 36 provides for the sale of such certificates and requires the collector, after any such sale, to mail a notice to the owner or agent of the owner, informing him of the sale and notifying him that unless he shall redeem the same within three years from the date of recording of the certificate, which, with the assignment thereof by the collector, must be recorded in the office of the County Clerk, a deed will be given to the purchaser. There is no requirement that the certificate, issued to the county, shall be recorded until it is sold, and then it must be recorded, together with the assignment made by the collector, and the three years' period of redemption begins to run from that date. In this, as in the other case, it is clearly for the interest of the purchaser to see that the certificate and assignment are promptly recorded so that the three years' term of redemption may begin to run.

In both cases, the purchaser for whose benefit the recording is made, must pay proper fees to the County Clerk for the recording, but there is no statute fixing the fees for this particular purpose. We are, therefore, remitted to the general statute as to the fees of the county clerk, and the only clause which I find at all applicable to this service, is in Section 1768 of the Compiled Laws of 1897 which reads "for copying any order, record

or paper, for every one hundred words, ten cents." I am of the opinion that this would be the proper charge for the clerk to make for recording such certificates.