

Opinion No. 15-1613

August 6, 1915

BY: H. S. CLANCY, Assistant Attorney General

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

As to definition of "true copy" as used in Chapter 71, Laws of 1915, relating to chattel mortgages.

OPINION

{*186} I have your letter of the 3rd instant in which you ask for the opinion of this office as to whether the words "a true copy," as used in Section 4, Chapter 71 of the Session Laws of 1915, relating to the right of a mortgagee in a chattel mortgage to withdraw the original filed with the county clerk, means a copy certified by the clerk and a charge made by him for such certification.

It is the opinion of this office that the words "a true copy," used in the act above mentioned, does not mean a certified copy, and that there is no authority conferred by law upon a county clerk to make a charge for certifying a copy of a chattel mortgage. Had it been the intention of the legislature that such copies should be certified, it would undoubtedly have used the word "certified," "authenticated" or "exemplified," but it cannot be said that the words "true copy" necessarily mean a certified, authenticated or exemplified copy. This question has been gone into by the courts to some extent, and in the case of *Bank v. Brecheison*, a case reported in 70 Pac., 895, the court said:

"The use of the words 'true copy' in the statute relative to the recording of chattel mortgages does not require that a literal and verbatim copy of the instrument must be filed, but a copy substantially true, so that creditors of the mortgagor or subsequent purchasers in good faith may not be misled to their detriment."

In this case it does not appear that the copy of the instrument in dispute was a certified copy, and no such inference can be drawn from an examination of the Kansas statute involved in that case.