



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

April 10, 1978

ATTORNEY GENERAL OPINION NO. 78- 139

Ms. Lynette Keddie
President
Kansas Register of Deeds Association
Stafford County Courthouse
St. John, Kansas 67576

Re: Register of Deeds--Fees--Recording

Synopsis: A fee of \$2.00 should be assessed under K.S.A. 1977
Supp. 28-115 for the recording of a partial release.

* * *

Dear Ms. Keddie:

K.S.A. 1977 Supp. 28-115 provides in pertinent part thus:

"The register of deeds of the several
counties of the state shall charge and collect
the following fees for his or her services:

For recording deeds, mortgages, or
other instruments of writing, for
first page \$5.00

* * *

Recording release or assignment of
real estate mortgage2.00"

The question which is raised is whether the recording of a partial
release requires the \$2.00 charge provided for the filing of re-
leases, or the fee of \$5.00 provided for "other instruments of
writing."

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Prior to amendment of K.S.A. 28-115, the fee for recording of release swas stated thus:

"Recording any release or assignment
of real estate mortgage, where the
same is endorsed on the original. . . .2.00"
[Emphasis supplied.]

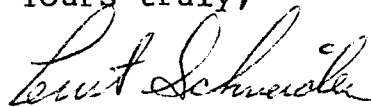
In ch. 194, § 1, L. 1976, the legislature amended this provision by striking out the underscored words, and increasing the fee from \$1.00 to \$2.00.

By letter dated December 16, 1977, Assistant Attorney General Clarence Malone advised, responding to an inquiry of a private citizen, that the fee for recording a partial release should be \$2.00, based on the language quoted above. Since that letter, we have received letters from several registers of deeds, advising that under the current practice, most registers of deeds have regarded partial releases as "other instruments of writing," and assessed a fee of \$5.00 therefor, a practice which presumably resulted from the 1976 amendment which eliminated the fee for endorsing releases on the original mortgage.

The legislature has specified a fee of \$2.00 to be charged for the recording of releases. I see absolutely no statutory basis for distinguishing between full and partial releases. A partial release has precisely the same effect as to the property to which it applies as does a full release. In specifying a fee of \$2.00, there is no reason to attribute to the legislature an intent to distinguish between kinds of releases, and there is certainly no reason to believe that, having specified a fee for releases, as such, it contemplated that one kind of release, a partial release, should be treated for fee purposes as an entirely different kind of instrument from the releases for which it specifically prescribed a fee.

Accordingly, in my opinion a fee of \$2.00 should be charged for the recording of partial releases.

Yours truly,



CURT T. SCHEIDER
Attorney General

CTS:JRM:kj