



STATE OF KANSAS

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May 8, 1985

ATTORNEY GENERAL OPINION NO. 85- 45

Steven Flint
Smith County Register of Deeds
Smith County Courthouse
Smith Center, Kansas 66967

Re: Procedure, Civil--Lis Pendens and Judgment Liens on
Real Property--Notice of Pending Action; Fees for Filing

Synopsis: No fee is authorized and no fee should be charged by a
register of deeds when filing a judgment pursuant to
K.S.A. 60-2201(b). Cited herein: K.S.A. 1984 Supp.
28-115; K.S.A. 60-2201.

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Dear Mr. Flint:

You seek our opinion whether a fee should be charged by a
register of deeds for filing a judgment under the provisions of
K.S.A. 60-2201(b). This subsection provides:

"(b) When the subject of the action is real
property situated in two (2) or more counties,
the filing of the petition in the district
court of one county shall not be held to
impart notice to persons acquiring an
interest in the real property situated in
another county, except from the time the
plaintiff in such action shall pay a filing
fee of five dollars (\$5) and file for record

with the register of deeds of such other county, a verified statement setting forth the nature of the action, the court in which it is pending and a description of the real property sought to be affected thereby. Once final judgment is entered in the action, the plaintiff in such action shall file a copy of such judgment with the register of deeds." (Emphasis added.)

This statute clearly requires that a five dollar (\$5) fee be paid when a verified statement giving notice of a pending lawsuit is filed with the register of deeds. The statute, however, does not require that a fee be paid when a copy of the judgment is filed.

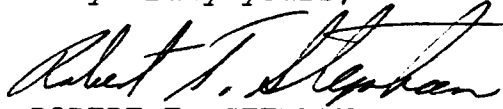
You indicate that some registers of deeds do not charge any fee for this filing. In other counties a five dollar (\$5) fee is charged, while in still others a fee is charged based upon the number of pages of the judgment, with five dollars (\$5) being charged for the first page and one dollar (\$1) for each additional page. (This "per page" fee is the amount charged by a register of deeds for recording "deeds, mortgages or other instruments of writing," under the provisions of K.S.A. 1984 Supp. 28-115.) Because this matter is handled differently in the various counties, you seek our opinion so that a uniform policy might be established.

In our opinion, no fee authorized for the filing of a judgment under this statute. It is clear that the five dollar (\$5) fee prescribed in K.S.A. 60-2201 relates solely to the filing of a statement giving notice of a pending action and is unassociated with the filing of a judgment in an action. Thus, the five dollar (\$5) fee is not applicable.

Additionally, since the legislature included a specific filing fee in K.S.A. 60-2201 regarding the filing of a notice statement, it would be inconsistent to conclude that the legislature intended the general fee provisions of K.S.A. 1984 Supp. 28-115 to be applicable to the filing of a judgment under the statute. If the legislature had intended that the "per page" fee prescribed in K.S.A. 1984 Supp. 28-115 was to be applicable to documents filed under K.S.A. 60-2201, there would have been no need to provide for the five dollar (\$5) fee mandated in the latter statute for notices of pending actions. Thus, we do not think the legislature intended that reference be made to K.S.A. 1984 Supp. 28-115 in charging a fee for filing a judgment under the provisions of K.S.A. 60-2201(b).

Based upon the above considerations, it is our opinion that a fee should not be charged by a register of deeds for filing a judgment under K.S.A. 60-2201(b).

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bieker
Assistant Attorney General

RTS:JSS:RJB:jm