

OPINION NO. 78-028**Syllabus:**

Facsimile signature may appear on applications for certificates of title and odometer statements, pursuant to R.C. 4505.06. Such a facsimile signature may not, however, be employed by a person other than the person whose signature a facsimile signature purports to represent.

To: Dean L. Dollison, Registrar, Bureau of Motor Vehicles, Columbus, Ohio
By: William J. Brown, Attorney General, May 4, 1978

I have before me your request for my opinion in which you ask whether or not facsimile signatures may appear on applications for certificates of title and odometer statements pursuant to R.C. 4505.06. It is my understanding that some banks have contemplated allowing employees to use a signature stamp of an officer, authorized to swear on behalf of the bank involved, in order to place the signature upon the application for title, which would then be notarized.

R.C. 4505.06 provides that "[a]pplication for a certificate of title shall be made upon a form provided in section 4505.07 of the Revised Code, and shall be sworn to before a notary public or other officer empowered to issue oaths." The form contained in R.C. 4505.07 for an application for a certificate of title requires that such application be sworn and subscribed to by the applicant before a notary public. A subscription is the act of affixing one's signature to a written document. Black Law Dictionary (4th ed., 1968). Accordingly, it is first necessary to determine if a facsimile signature is a signature for the purpose of R.C. Chapter 4505.

"Signature" or "signed" is not defined in R.C. Chapter 4505. However, in R.C. 1301.01 (MM), "signed" is defined for the purpose of the Uniform Commercial Code as ". . . any symbol executed or adopted by a party with the present intention to authenticate a writing." In Smith v. Greenville County, 199 S.E. 416, 419 (S.C., 1938), the South Carolina Supreme Court commented that a "signature" may be written by hand, printed, stamped, typewritten or cut from one instrument and attached to another. Moreover, in Griffith v. Bonawitz, 103 N.W. 327, 329 (Neb., 1905), it was observed that ". . . whatever mark, symbol, or device one may choose to employ as a representative of himself is sufficient" as a signature. Accordingly, I am persuaded that a "signature" for the purpose of R.C. 4505.06 and 4505.07 includes a facsimile signature.

However, it must be noted that a facsimile signature cannot be employed by a person other than the person whose signature a facsimile signature purports to represent. R.C. 4505.06 requires that an applicant for a certificate of title shall make application on a form prescribed by R.C. 4505.07 which ". . . shall be sworn to before a notary public or other officer empowered to administer oaths." Necessarily, the person employing the facsimile signature in lieu of a handwritten one must be present before the notary or other officer to be sworn and to subscribe the document. Such duty cannot be delegated to another by the expedient of supplying another with an applicant's facsimile signature device.

Therefore, it is my opinion, and you are so advised, that facsimile signature may appear on applications for certificates of title and odometer statements, pursuant to R.C. 4505.06. Such a facsimile signature may not, however, be employed by a person other than the person whose signature a facsimile signature purports to represent.