

**OPINION NO. 66-013****Syllabus:**

A person who seeks to have recorded by separate instrument an affidavit which has an effect on an instrument found in the records, and requests the recorder to make a reference notation on the margin of the instrument affected by the affidavit, shall be charged the fees for recording and indexing prescribed in sub-sections 317.32 (A) and (B) or sub-section (D) plus the fee for the recording of "any other marginal entry" appearing in sub-section (H).

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**To: Bernard V. Fultz, Meigs County Pros. Atty., Pomeroy, Ohio**  
**By: William B. Saxbe, Attorney General, January 12, 1966**

Your request for my opinion contains the following statement:

"Section 317.32 (G), of the Ohio Revised Code, provides that the County Recorder shall receive fifty cents for recording assignment or satisfaction of mortgage or lease or 'any other marginal entry'. Frequently, persons will bring an affidavit to the Recorder's Office and have the same recorded in the Miscellaneous Records and then request the Recorder to make a reference notation on the margin of the deed or other document effected by the affidavit.

"I will appreciate your advice as to whether such a notation as this is a notation for which the Recorder should collect fifty cents in accordance with the provisions of this section."

Section 317.32, Revised Code, which establishes the fees to be charged by a county recorder for his services, was recently amended by the addition of sub-section (H). This sub-section provides for the following charge:

"(H) For recording assignment or satisfaction of mortgage or lease or any other marginal entry by separate instrument, fifty cents for each assignment or satisfaction or other marginal entry set out in such instrument;"

Prior to this amendment, the only mention in this section of such an entry was that appearing in sub-section (G), which is retained in the present statute and reads as follows:

"(G) For recording assignment or satisfaction of mortgage or lease or any other marginal entry, fifty cents;"

An interpretation of the above statute as it read before the 1965 amendment may be found in Opinion No. 1770, Opinions of the Attorney General for 1960, page 642. The following statement appears on page 645 of that opinion:

"The notation made on the record of the original instrument by the county recorder showing where the actual assign-

ment, release or other document affecting such instrument may be found in his records, does not appear to constitute a marginal entry within the meaning of that term as used in Section 317.32 (G), Revised Code. In view of the content of the recording laws heretofore discussed, and of the intent of the legislature in the enactment of such laws, I am of the opinion that a 'marginal entry' as used in said Section 317.32 means an entry made on the margin of a record which in and of itself has some effect, be it an assignment, release, cancellation, or otherwise, upon the relation of the parties to the instrument upon which it is made. The notation\* \* \*is merely a means of indicating to any person reading the record that a subsequent transaction can be found elsewhere. It is therefore a part of the indexing of such subsequent transaction and where typewriting is used, the cost of such notation would be included in the indexing fee set forth in Section 317.32 (B), Revised Code."

Thus, under the above interpretation, the recording of an assignment, satisfaction, or marginal entry by separate instrument entitled the recorder to charge the fees prescribed in sub-section (A) and (B) but not that of sub-section (G) since no entry was made on the record of the original instrument which had an effect in and of itself upon that original instrument.

Sub-section (H) was directed toward the alleviation of the problem that came as a result of the prior interpretation of Section 317.32, supra. Under sub-section (H) the recorder shall charge a fee of fifty cents for each assignment or satisfaction of mortgage or lease or other marginal entry recorded by means of a separate instrument.

Therefore, it is my opinion and you are hereby advised that a person who seeks to have recorded by separate instrument an affidavit which has an effect on an instrument found in the records, and requests the recorder to make a reference notation on the margin of the instrument affected by the affidavit, shall be charged the fees for recording and indexing prescribed in sub-sections 317.32 (A) and (B) or sub-section (D) plus the fee for the recording of "any other marginal entry" appearing in sub-section (H).