

612

FEES—CHARGE FOR RECORDING, BY PHOTOSTATIC PROCESS, ANY INSTRUMENT WITHIN PURVIEW OF SECTION 2778, G. C., IS SIXTY CENTS PER PAGE, SIZE 8½" x 14"—ANY PAGE OF SMALLER SIZE SHOULD BE CHARGED FOR AT SAME RATE.

SYLLABUS:

Under the provisions of Section 2778 General Code, the charge for recording, by photostatic process, any instrument which is within the purview of said section, is sixty cents per page of such instrument, of a size of eight and one-half inches by fourteen inches, and any page of such instrument of a smaller size should be charged for at the same rate.

Columbus, Ohio, December 11, 1945

Bureau of Inspection and Supervision of Public Offices
Columbus, Ohio

Gentlemen:

I have before me your request for my opinion, reading as follows:

“Since the enactment of House Bill No. 194 by the 96th General Assembly, considerable uncertainty exists among the county recorders of the state relative to the fees to be charged for recording instruments by photostat or similar process.

As an example: Recently a mortgage was presented for record in a certain county, said mortgage being in book form, containing 202 pages of a size less than $8\frac{1}{2} \times 14$. Said mortgage would be recorded by photostat, and in the recording, two pages of the instrument would be recorded on one page of the photostatic paper.

May we respectfully request that you advise us what would be the proper fee for the recorder to charge for recording this instrument, it being understood that the indexing of same would be in addition to the recording fee.”

House Bill No. 194, referred to in your letter, passed by the 96th General Assembly and effective October 11, 1945, amended Section 2778 of the General Code to read as follows:

“For the services hereinafter specified, the recorder shall charge and collect the fees provided in this and the next following section. *For recording manually or through the use of a typewriter* a mortgage, deed of conveyance, power of attorney or other instrument of writing, twelve cents for each hundred words actually written, typewritten or printed on the records and for indexing it, five cents for each grantor and each grantee therein; for certifying copy from the record, twelve cents for each hundred words. *For recording any of the above when the photostat or any similar process is employed the charge shall be sixty cents for each page, size $8\frac{1}{2} \times 14$ or fraction thereof, of said instrument; for certifying copy from the photostat record the fee shall be the same as was charged for recording.*

For certifying copy by making a photostat of any written or typewritten record previously recorded the charge shall be sixty cents per page, size $8\frac{1}{2} \times 14$ or fraction thereof. The fees in this section provided shall be paid upon the presentation of the respective instruments for record or upon the application for any certified copy of the record.”

(Emphasis added.)

The amendment consisted solely in the insertion of the words which I have emphasized. Section 32-1, General Code, providing for recording by photostatic method has been in effect since 1929, and until the recent amendment of said Section 2778 above referred to, the charge for record-

ing by that comparatively new method was computed at the stipulated rate per hundred words, the photostatic process being regarded and held to be a method of printing. See 1933 Opinions, Attorney General, page 194.

The general assembly has now provided a different scale of charge for recording by the photostatic process, from that which was long in effect and is still in effect for recording by writing, typing or ordinary printing. The charge for recording by the photostatic process is no longer to be on the basis of twelve cents "for each hundred words actually written, type-written or printed *on the records*" but is to be sixty cents "*for each page, size 8½ x 14 or fraction thereof, of said instrument.*" In other words, in estimating the charge for the photostatic record, one looks only at the instrument, ascertains how many pages it contains of a "size 8½ x 14 or fraction thereof" and multiplies that number by sixty cents.

I do not consider that the fact that the instrument may be on pages smaller than 8½ x 14 affords any basis for reducing this page price below sixty cents. The statute say "sixty cents per page, size 8½ x 14 or fraction thereof." A page 8½ x 14 inches would contain 119 square inches; a page 6 x 10 would contain 60 square inches, which would certainly be a fraction of 119. The punctuation of the phrase appears to support the interpretation above indicated. My conclusion is not affected or altered by the evident fact that a partially filled page of the instrument would also be a fractional page. The language used in the statute would include both. Manifestly, if the instrument is prepared as is frequently the case, in book form, there must be a separate photograph of each page, and the general assembly has not seen fit to provide that for a smaller page than the standard, there should be charged a proportionally smaller fee.

Specifically answering your question it is my opinion that under the provisions of Section 2778, General Code, the charge for recording by photostatic process any instrument which is within the purview of said section, is sixty cents per page of such instrument of a size of eight and one-half inches by fourteen inches, and that any page of such instrument of a smaller size should be charged for at the same rate.

Respectfully,

HUGH S. JENKINS

Attorney General