

estate salesmen's licenses as may be necessary under the provisions of Sections 6373-25 to 6373-51 of the General Code. In such a case it is necessary that proper bond be given both to the commissioner of securities and the board of real estate examiners, as provided by law."

Concluding, it is my opinion that since a warehouse receipt issued for whiskey in a bonded warehouse is a certificate or instrument which represents title to and an interest in the property of another, the same is a security within the meaning of that term as defined in Section 8624-2, General Code.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4913.

APPROVAL, BONDS OF CITY OF CLEVELAND, CUYAHOGA COUNTY, OHIO, \$1,000.00.

COLUMBUS, OHIO, November 20, 1935.

State Employes Retirement Board, Columbus, Ohio.

4914.

COUNTY RECORDER—DUTIES AS TO FILING AND RE-FILING CHATTEL MORTGAGE.

SYLLABUS:

1. *Where a chattel mortgage is properly re-filed, it is the duty of the County Recorder, in addition to entering the date of re-filing upon the margin of the original filing record, to re-index and re-enter the names of all the parties to the instrument in the same manner as if a new chattel mortgage were filed.*

2. *The County Recorder is required to keep chattel mortgages in his office until six years after the time for re-filing such mortgages has expired.*

COLUMBUS, OHIO, November 20, 1935.

HON. ROBERT F. JONES, *Prosecuting Attorney, Lima, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

“I have been requested by the County Recorder for your opinion as to the duties of a county recorder when a chattel mortgage is properly presented for re-filing. Is it the county recorder's duty under General Code 8562 to re-index and re-enter the names of all parties to the instrument together with the date of re-filing in the same manner as he is required to do at the time of the original filing thereof, and to also enter the date of re-filing upon the margin of the original filing record; or is he merely required to enter the date of re-filing upon the margin of the original filing record.

By way of explanation, if the county recorder merely enters the date of re-filing upon the margin of the original filing record and does not re-index and re-enter at each re-filing (as if a new chattel mortgage were filed each time) a person searching the record is never safe unless he researches the records back to the time the filing law became effective.

How long is a county recorder required to keep chattel mortgages in his office after the date of filing or re-filing before disposing of or destroying same?”

A properly recorded chattel mortgage is effective as a valid lien for only three years, unless the mortgage is refiled in accordance with Section 8565, General Code. This section reads as follows:

“Every mortgage so filed shall be void, as against the creditors of the person making it or against subsequent purchasers or mortgagees in good faith, after the expiration of three years from the filing thereof, unless, within thirty days next preceding the expiration of such term of three years, a true copy of such mortgage, or the original mortgage, together with a statement, verified as provided in section eighty-five hundred and sixty-four, together with a statement exhibiting the interest of the mortgages in the property at the time last aforesaid, claimed by virtue of such mortgage, is refiled in the office of the county recorder as provided in section eighty-five hundred and sixty-one. Six years after the time for re-filing chattel mortgages has expired the county recorder may destroy such mortgages.”

It will be noticed that this section provides that the mortgage should be re-filed in accordance with Section 8561, General Code. This section reads as follows:

“The instruments mentioned in the next preceding section must be deposited with the county recorder of the county where the mortgager resides at the time of the execution thereof, if a resident of the state, and if not such resident, then with the county recorder of the county in which the property so mortgaged is situated at the time of the execution of the instrument.”

The procedure by a County Recorder in recording a chattel mortgage in the first instance is specifically covered by Section 8562, General Code. This section was enacted at the same time as Section 8561 and is in *pari materia* with that section. Section 8562, General Code, reads as follows:

Sec. 8562:

“The officer receiving such an instrument shall indorse thereon the time of receiving it and its consecutive number, and enter in a book to be provided by the county the names of all parties thereto, alphabetically arranged, with the number of the instrument, its date, the day of filing it, and the amount secured thereby, which entry must be repeated, alphabetically, under the name of every party thereto. He also shall deposit the instrument in his office to be there kept for the inspection of all persons interested. When such mortgage is refiled or cancelled the date of such re-filing or cancellation must be entered upon the margin of such record opposite the original entry.”

Since Section 8565, General Code, *supra*, requires that a chattel mortgage should be re-filed, as provided in Section 8561, it is necessary to read Section 8562, together with Section 8561, in order to arrive at the correct method of such recordation. Section 8562, General Code, specifically provides that the mortgage should be recorded under the name of every party to the mortgage. Since Section 8565, General Code requires that a mortgage which is re-filed should be recorded as provided in Section 8561, which section must be read together with Section 8562, it would logically follow that a mortgage which is re-filed should be likewise re-indexed under the name of all the parties to the mortgage. In addition, when such chattel mortgage is re-filed the date of such re-filing must be entered upon the margin of such record opposite the original entry, as specifically provided in the last sentence of Section 8562, General Code. In other words, it would appear that

the mere entry by the County Recorder of the date of the re-filing upon the margin of the original filing record, would not be sufficient. In addition, the County Recorder should re-index the names of all the parties to the instrument.

Your second question relative to how long a County Recorder is required to keep chattel mortgages in his office, after the date of filing or re-filing, before disposal of or destroying them, is specifically covered by the Amendment of Section 8565, General Code, *supra* (116 O. L. p. 324). This section was amended at the recent session of the legislature by the addition of the following language:

“* * * Six years after the time for re-filing chattel mortgages has expired the county recorder may destroy such mortgages.”

This provision was inserted because of the lack of space in some counties to keep these old chattel mortgages after the time for re-filing had expired. Since these mortgages may be destroyed at the end of six years from the time such mortgages could be re-filed, it would logically follow that the County Recorder must wait six years from the date for re-filing a mortgage before the same may be legally destroyed.

Summarizing, and in specific answer to your inquiries, it is my opinion:

1. Where a chattel mortgage is properly re-filed, it is the duty of the County Recorder, in addition to entering the date of re-filing upon the margin of the original filing record, to re-index and re-enter the names of all the parties to the instrument in the same manner as if a new chattel mortgage were filed.
2. The County Recorder is required to keep chattel mortgages in his office until six years after the time for re-filing such mortgages has expired.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4915.

SURVEYOR—PRACTICING AS PROFESSIONAL ENGINEER
WHEN—LICENSED BY STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS
WHEN.

SYLLABUS:

1. *Any county surveyor elected in 1932 and who assumed office the first Monday in January, 1933 and continued as such officer until September*