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INSTRUMENT FILED AND RECEIVED FOR RECORD BY COUNTY RECORDER—SECTION 317.111 RC REQUIRES NAME OF PERSON WHO PREPARED ANY OF INSTRUMENTS MUST APPEAR AT CONCLUSION—NAME ON COVER SHEET OF INSTRUMENT NOT SUFFICIENT.

SYLLABUS:

Section 317.111, Revised Code, requires that the name of the person who has prepared any of the instruments therein designated be disclosed thereon at the conclusion of such instrument in order that it may be received for record by the county recorder; and the disclosure of such name only on the cover sheet of such instrument is not sufficient to meet the requirements of the statute.

Columbus, Ohio, October 5, 1955

Hon. George M. Monahan, Prosecuting Attorney
Auglaize County, Wapakoneta, Ohio

Dear Sir:

I have for consideration your request for my opinion in which the following question is presented relative to Section 317.111, Revised Code:

“* * * Would it be permissible for county recorders to accept instruments with the name signed, stamped, printed or type-written on the cover or on the outside of the instrument after it is folded.”

Section 317.111, Revised Code, reads as follows:

“No instrument by which the title to real estate or personal property, or any interest therein or lien thereon, is conveyed, created, encumbered, assigned or otherwise disposed of, shall be received for record or filing by the county recorder unless the name of the person who, and governmental agency, if any, which, prepared such instrument appears *at the conclusion of such instrument* and such name is either printed, typewritten, stamped, or signed in a legible manner. An instrument will be in compliance with this section if it contains a statement in the following form: ‘This instrument was prepared by (name).’

“This section does not apply to any instrument executed prior to the effective date of this section, nor to the following: any decree, order, judgment, or writ of any court; any will or death certificate; any instrument executed or acknowledged outside of this state.” (Emphasis added.)

The word “conclusion,” in the sense it is here used, is defined by Webster as follows:

“1. the last part of anything; end.”

If this meaning be ascribed to this word in the case at hand, it is clear that this provision is somewhat analogous to that set out in Section 2107.03, Revised Code requiring that wills be signed “at the end.” I do not mean to suggest that the courts would construe the language here in question as strictly as has been the case in the construction of wills, but this requirement that the name of the person concerned appear “at the conclusion of such instrument” could not, in my opinion, be satisfied by placing such name on the cover of an instrument.

In reaching this conclusion I am not unmindful of the provision in this section that:

“* * * An instrument will be in compliance with this section if it *contains* a statement in the following form: ‘This instrument was prepared by (name)’” (Emphasis added.)

Established rules of statutory construction require that effect be given to all provisions of an enactment if it is possible to do so, and to this end the seemingly inconsistent provisions involved should be harmonized if possible. The provisions here involved may readily be harmonized by construing the last quoted provision above to refer to cases where the instrument “contains” such name “at the conclusion” thereof; and I conclude that such as the proper interpretation of this provision.

This view is further supported by the fact that the “cover” of an instrument is ordinarily affixed thereto solely for the purpose of preserving the instrument from deterioration through wear and tear, and so does not constitute a part of the actual instrument. It seems to be the legislative intent that the name of the person who has prepared an instrument shall be recorded as a part of the record of the instrument, and this would not be accomplished where the name appears otherwise than on the instrument itself.

As I have already indicated, I do not anticipate that the courts will be especially strict in the application of this requirement, but rather will require only that the name of the person who has prepared the instrument be disclosed thereon in reasonable proximity to the end thereof.

Accordingly, in specific answer to your inquiry, it is my opinion that Section 317.111, Revised Code, requires that the name of the person who has prepared any of the instruments therein designated be disclosed thereon at the conclusion of such instrument in order that it may be received for record by the county recorder; and the disclosure of such name only on the cover sheet of such instrument is not sufficient to meet the requirements of the statute.

Respectfully,
C. WILLIAM O'NEILL
Attorney General