

**OPINION NO. 66-094****Syllabus:**

1. A county recorder may attach a page or partial page to the instrument filed and place thereon recording information.

2. A county recorder may not charge a fee for the page or partial page that was added. Opinion No. 4, Informal Opinions of the Attorney General for 1957, approved and followed.

3. When an instrument is filed that contains a blank page the recording information may be placed upon that blank page, however, no fee may be charged for that page.

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To: Paul J. Mikus, Lorain County Pros. Atty., Elyria, Ohio  
By: William B. Saxbe, Attorney General, May 18, 1966

Your recent request for my opinion contains the following questions:

"1. Occasionally an instrument is filed with the Recorder which contains so much data that there is no room on the instrument filed to put the recording data. Accordingly, the following questions are raised:

"A. May the Recorder attach a page or partial page to the recorded instrument and place the recording data thereon?

"B. If the answer to A is the affirmative, may the Recorder charge the normal fee for recording of the attached page?

"2. Occasionally an instrument is filed containing a completely blank page which is the only place on the instrument to place the recording data. May the normal recording fee be charged for this otherwise blank page?"

The duties of the county recorder concerning recording written instruments are found in Section 317.12, Revised Code, which states in part as follows:

"Upon the presentation of a deed or other instrument of writing for record, the county recorder shall endorse thereon the date, the precise time of its presentation, and a file number. \* \* \*"

Additional duties of the recorder are set forth in Section 317.26, Revised Code, which states in part as follows:

"Upon the presentation of any instrument for filing or record, the county recorder shall endorse thereon the fee charged by him for filing or recording such instrument, \* \* \*"

It has long been recognized that, "County officials have such duties and powers as are fixed by statute and as are naturally and necessarily implied from the language of the statute." State ex rel., v. Kratt, 19 Ohio App., 454 at page 456.

The county recorder has the duty to record certain items of information upon the document presented for recording. I am loathe to say that I believe the circumstance wherein a written instrument would be of such a voluminous nature that

it would prevent the endorsements required being placed thereon by the recorder are indeed uncommon. I cannot deny such a possibility. If it should so happen that there is insufficient space to place the information, then it follows that the attachment may be necessary.

In Informal Opinion No. 4, Informal Opinions of the Attorney General for 1957, I stated in part as follows:

"Under the provisions of Section 317.08, Revised Code, the recorder is under a duty to record all instruments, listed therein, which are presented to him for that purpose, and, as provided in Section 317.32, Revised Code, is authorized certain fees for recording any such instrument.

"If the instrument offered for recording by photostating is a deed and provides no printed place for noting transfer and recording information on its face, it is customary for the recorder in most counties to rubber stamp a small form on the face of the instrument for this use.

"It is my view that a page, attached to or on the reverse side of a legal instrument, which contains only the title or name of the instrument and the names of the parties thereto with space to fill in the transfer and recording information, adds nothing to the legal efficacy of such instrument and is not such a part of it as need be recorded and the recorder would thus be without authority to collect a fee for recording it."

I conclude that the above reasoning applies to a page added or to a blank page as well. Neither adds to the legal efficacy of the instrument; therefore, I believe the recorder would be without authority to collect fees for recording such pages.

Therefore, it is my opinion and you are advised:

1. A county recorder may attach a page or partial page to the instrument filed and place thereon recording information.
2. A county recorder may not charge a fee for the page or partial page that was added. Opinion No. 4, Informal Opinions of the Attorney General for 1957, approved and followed.
3. When an instrument is filed that contains a blank page the recording information may be placed upon that blank page, however, no fee may be charged for that page.