

COMPENSATION:  
COUNTY RECORDER:

For the calendar year 1970 the recorder of deeds in a third class county which has a separate office of recorder of deeds and circuit clerk was entitled to receive the first \$4,750 in fees collected by his office as compensation and \$1,000 from the county treasury and his deputies were compensated out of the general revenue fund of the county without regard to the fees received by the office of recorder of deeds.

OPINION NO. 8

January 5, 1973

Honorable Christopher S. Bond  
State Auditor  
State Capitol Building  
Jefferson City, Missouri 65101



Dear Mr. Bond:

This is in response to your request for an opinion on the following question:

"During the calendar year 1970, must the compensation of a Recorder of Deeds and his deputies, in third class counties where there are separate offices of Recorder and Circuit Clerk, be paid out of fees earned as provided in old Section 59.250, RSMo 1965 Supp., or must only the Recorder's salary be paid out of fees earned with compensation for the deputies being paid out of the general fund, as provided by Section 59.257, RSMo 1969."

Section 59.257, RSMo 1969 (Laws 1969, p. 120, section 1), became effective October 13, 1969. That section provides for the appointment and compensation of deputy recorders in counties of the third class wherein there is a separate circuit clerk and recorder. That section states:

". . . The deputies appointed . . . shall receive the salaries that are fixed by the recorder of deeds, with the approval of the county court, from the general revenue of the county. . . ."

Since the deputy recorder does not serve a definite term of office, the provisions of Article VII, Section 13 of the Constitution prohibiting an increase in compensation of county officers

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has no application. Therefore, during the calendar year 1970, deputy recorders in third class counties which have separate offices of circuit clerk and recorder of deeds were compensated in accordance with the provisions of Section 59.257, RSMo--from the general revenue of the county without regard to the fees that were collected by the office of recorder of deeds.

The compensation of the recorder of deeds in such counties prior to October 13, 1969, was set by the provisions of Section 59.250, RSMo Supp. 1965. That section provided:

"1. The recorder of deeds in counties of the third class, wherein there is a separate circuit clerk and recorder, shall keep a full, true and faithful account of all fees of every kind received. He shall make a report thereof each year to the county court.

"2. All other fees over and above the sum of four thousand seven hundred fifty dollars for each year of his official term, seven hundred fifty dollars of which shall be compensation for the performance of duties imposed by section 137.117, RSMo, and four thousand dollars for other duties imposed by law, shall be paid into the county treasury after paying out of the fees and emoluments the amounts for deputies and assistants in his office that the county court deems necessary.

"3. In addition to the fees allowed to be retained by subsection 2 he shall receive as compensation for the performance of the duties imposed by section 59.255 one thousand dollars per year to be paid out of the county treasury."

In 1969 the amount of compensation and the method of compensating the recorder of deeds in third class counties was changed by Laws 1969, p. 120, section 1 (Section 50.334, RSMo 1969). Those recorders who were in office when the 1969 act was passed and whose term continued during the calendar year 1970 could not benefit from the increase in amount because of the prohibition against increasing compensation during the term of office found in Article VII, Section 13 of the Constitution. Article VII, Section 13 provides:

"The compensation of state, county and municipal officers shall not be increased during the term of office; nor shall the term of any officer be extended."

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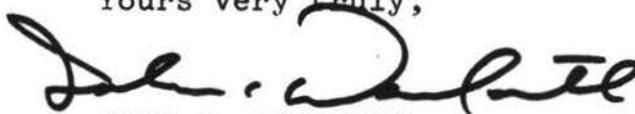
Therefore, such recorders were compensated at the rate fixed by Section 59.250, RSMo Supp. 1965. Under the compensation scheme set forth in Section 59.250, RSMo Supp. 1965, the recorder of deeds retained fees in the amount of \$4,750 and received an additional \$1,000 from the county treasury as compensation and paid all fees in excess of \$4,750 into the county treasury after deducting the amounts for deputies and assistants in his office. A careful reading of that section indicates that the deputies and assistants were to be paid out of fees in excess of \$4,750. Therefore, out of the fees the county recorder collected, the first \$4,750 was compensation to him and not to his deputies. When Section 59.257 was enacted, it provided for payment of deputies from the general revenue of the county. It did not increase the compensation of the recorder, but merely provided a method of compensating the deputies. Therefore, a county recorder who during the year 1970 was compensated in accordance with the provisions of Section 59.250, RSMo Supp. 1965, was entitled to receive the first \$4,750 of fees collected by his office and \$1,000 from the county treasury as compensation and his deputies during that year were entitled to receive compensation as approved by the county court in accordance with the provisions of Section 59.257, RSMo 1969.

#### CONCLUSION

It is the opinion of this office that for the calendar year 1970 the recorder of deeds in a third class county which has a separate office of recorder of deeds and circuit clerk was entitled to receive the first \$4,750 in fees collected by his office as compensation and \$1,000 from the county treasury and his deputies were compensated out of the general revenue fund of the county without regard to the fees received by the office of recorder of deeds.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Charles A. Blackmar.

Yours very truly,



JOHN C. DANFORTH  
Attorney General