

RECORDER OF DEEDS: Under Section 3364, page 640, Laws of Missouri,
MARRIAGE: 1943, applications for marriage license must
be presented and filed with the recorder of
deeds that issues said license.

Who
January 17, 1948

FILED

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1/26
Honorable Cleo V. Cauthon
Clerk of the Circuit Court and
Ex-Officio Recorder of Deeds
St. Clair County
Osceola, Missouri

Dear Sir:

This will acknowledge receipt of your request for an
opinion which reads:

"I would like the opinion of your office
on the following question. CAN A RECORDER
ISSUE A MARRIAGE LICENSE TO AN APPLICANT
ON PRESENTATION OF THE APPLICATION FILED
IN ANOTHER COUNTY BY THE APPLICANT? Even
though all requirements of Blood Test and
the three day waiting period are met.

"I am enclosing an application from
Phelps County as Enclosure A. Could the
Recorder of St. Clair or Cedar or some
other county issue a marriage license on
presentation of this application by the
applicant?"

The primary rule of statutory construction is to ascertain
and give effect to the lawmakers' intent from words used, if
possible, and to that end, courts will look less to the letter
or words of a statute and more to the context, subject matter,
consequences and effect. See City of St. Louis vs. James
Braudis Coal Company, 137 S.W. (2d) 668; also City of St.
Louis vs. Pope, 126 S.W. (2d) 1201, 344 Mo. 479.

The specific provision to be construed is Section 3364,
page 640, Laws of Missouri, 1943, which reads:

"Previous to any marriage in this state,
a license for that purpose shall be obtained
from the officer authorized to issue the
same, and no marriage hereafter contracted
shall be recognized as valid unless such
license has been previously obtained, and

unless such marriage is solemnized by a person authorized by law to solemnize marriages. Before applicants for a marriage license shall receive a license, and before the Recorder of Deeds shall be authorized to issue a license, the parties to the marriage must, at least three days before the date they desire such license to be issued, present an application for the license to the Recorder of Deeds. Upon the expiration of three days after the receipt of such application, duly executed and signed, the Recorder of Deeds shall issue the license, unless one of the parties withdraws the application. Provided, however, that said license may be issued on order of the Circuit or probate court or a judge thereof in vacation of the County in which said license is applied for, without waiting three days as herein provided, such license being issued only for good cause shown and by reason of such unusual conditions as to make such marriage advisable. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor. Common law marriages hereafter contracted shall be null and void. Provided, however, that no marriage shall be deemed or adjudged invalid, nor shall the validity thereof be in any way affected on account of any want of authority in any person so solemnizing the same under the next preceding section, if consummated with the full belief on the part of the persons, so married, or either of them, that they were lawfully joined in marriage."
(First underscoring ours.)

There is no specific requirement that said application must be obtained from the recorder in the county that issues the marriage license. Therefore, we believe as a prerequisite for securing a marriage license that persons may obtain applications for said marriage license from any recorder of deeds. However, when properly executed, said applications must be filed with the recorder of deeds that issues the marriage license. The very words used in Section 3364 so indicate by providing that before applicants for a marriage license shall

receive a marriage license, the parties to the marriage must, at least three days before they desire such marriage license to be used, present an application for the license to the recorder of deeds. Then, upon expiration of three days thereafter, the receipt of such application duly executed and signed, the recorder shall issue the license, which clearly indicates that the same recorder that receives said application for a marriage license three days thereafter shall issue the license. There is no provision included in said section to authorize a recorder of deeds to recognize the presentation and filing of said application with some other recorder of deeds in this state and then to issue a marriage license to said applicants.

We are inclined to believe that Section 3364, supra, is not ambiguous, and therefore, leaves no room for construction. The courts have often held that where the language of a statute is plain and admits of but one meaning, there is no room for construction. See Cummins vs. Kansas City Public Service Company, 66 S.W. (2d) 920, 334 Mo. 672. To hold any other way than that the application must be filed with the recorder issuing the license would lead to utter confusion and abuses. Had the Legislature, in enacting Section 3364, supra, intended that said application for marriage license should be presented to any recorder of deeds in the state, and that it was not necessary that it be presented only to the recorder issuing the marriage license, it could have specifically provided so for same. Under the circumstances, we believe that Section 3364, supra, clearly indicates that such application for marriage license shall be presented only to the recorder issuing the license.

CONCLUSION

Therefore, it is the opinion of this department that applications for marriage licenses, under Section 3364, page 640, Laws of Missouri, 1943, must be presented to the recorder of deeds that issues said marriage license, at least three days before the date applicants desire said marriage license shall be issued, and that said application may not be presented to one recorder of deeds and another recorder of deeds issue the marriage license.

Respectfully submitted,

APPROVED:

AUBREY R. HAMMETT, Jr.
Assistant Attorney General

J. E. TAYLOR
Attorney General