



**JIM RYAN**

ATTORNEY GENERAL  
STATE OF ILLINOIS



July 14, 1995

FILE NO. 95-007

**FEES:**

Fees to be Charged by Recorders  
for Non-Conforming Documents

Honorable Marshall E. Douglas  
State's Attorney, Rock Island County  
Rock Island County Courthouse  
Rock Island, Illinois 61201

Honorable Michael P. Coghlan  
State's Attorney, DeKalb County  
133 West State Street  
Sycamore, Illinois 60178

Gentlemen:

I have your letters wherein you inquire regarding the computation of the additional fee to be charged by a county recorder of deeds under section 3-5018 of the Counties Code (55 ILCS 5/3-5018 (West 1993 Supp.)), as amended by Public Act 87-1197, effective January 1, 1993, for filing non-conforming documents. Specifically, your questions concern whether the \$3 system automation charge which is also provided for in section 3-5018 is to be considered a part of the "fee otherwise provided by law", for purposes of computing the additional fee referred to therein. For the reasons hereinafter stated, it is my opinion

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that the additional charge of \$3 which may be imposed by a county board to defray the cost of converting the recorder's document storage system to computers or micrographics is not to be included in calculating the additional fee required for the recording of a non-conforming document.

Section 3-5018 of the Counties Code, as amended, sets forth the fees to be charged by county recorders, and further provides, in pertinent part:

" \* \* \*

The recorder shall charge an additional fee, in an amount equal to the fee otherwise provided by law, for recording a document (other than a document filed under the Plat Act) that does not conform to the following standards:

(1) The document shall consist of one or more individual sheets measuring 8.5 inches by 11 inches, not permanently bound and not a continuous form.

(2) The document shall be printed in black ink, typewritten or computer generated, in at least 10-point type.

(3) The document shall be on white paper of not less than 20-pound weight and shall have a clean margin of at least one-half inch on the top, the bottom, and each side.

(4) The first page of the document shall contain a blank space, measuring at least 3 inches by 5 inches, in the upper right corner.

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(5) The document shall not have any attachment stapled or otherwise affixed to any page.

A document that does not conform to these standards shall not be recorded except upon payment of the additional fee required under this paragraph. This paragraph applies only to documents dated after January 1, 1995.

The county board of any county may provide for an additional charge of \$3 for filing every instrument, paper, or notice for record, in order to defray the cost of converting the county recorder's document storage system to computers or micrographics.

\* \* \*

"

(Emphasis added.)

The system automation charge referred to in the last quoted paragraph was present in the section prior to the addition of the preceding language requiring the imposition of additional fees for filing non-conforming documents.

Under section 3-5018, the "additional fee" to be imposed for recording a non-conforming document is to be "in an amount equal to the fee otherwise provided by law"; in other words, the applicable recording fees are to be doubled in such cases. The preceding paragraphs of section 3-5018 repeatedly use the word "fee" to refer to amounts to be paid for the recording of certain documents. The \$3 charge for document storage automation, however, is referred to not as a "fee", but as an "additional charge". While the distinction in meaning between the two

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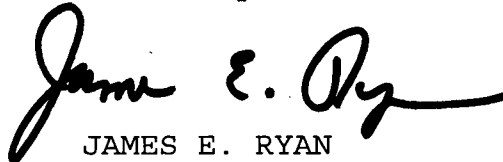
terms may not be great, the fact that different terms have been used within the same statutory section is indicative that the amounts they refer to were viewed differently by the General Assembly. (Aurora Pizza Hut, Inc. v. Hayter (1979), 79 Ill. App. 3d 1102, 1105-06.) Consequently, it is my opinion that the General Assembly intended for the system automation charge to be distinct from, and not to be treated as part of, the recording fees otherwise provided.

This conclusion is supported by the use of the term "provided by law", with respect to those fees. That term generally is used to refer to legislation enacted by the General Assembly, not to ordinances adopted by units of local government. (Peile v. Shelgas Inc. (1993), 242 Ill. App. 3d 500, 518; Decatur v. Ill. State Labor Rel. Bd. (1986), 149 Ill. App. 3d 319, 323; See also Quinn v. Donnewald (1985), 107 Ill. 2d 179, 186; County of Kane v. Carlson (1986), 140 Ill. App. 3d 814, 819, aff'd on other grounds (1987), 116 Ill. 2d 186; Oak Park Federal Savings & Loan Association v. Village of Oak Park (1973), 54 Ill. 2d 200, 203.) Thus, "fee[s] otherwise provided by law" would ordinarily refer to amounts imposed by the General Assembly by statute, not to charges which may be imposed at the option of a county board. The fact that the additional charge is authorized to be imposed by a county board, in its discretion, pursuant to statute, is not equivalent to a fee imposed directly by statute.

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For the reasons stated, it is my opinion that the system automation charge provided for in section 3-5018 of the Counties Code is not to be considered a part of the "fee otherwise provided by law", for purposes of calculating the additional fee required for the filing of non-conforming documents.

Sincerely,

A handwritten signature in black ink, reading "James E. Ryan". The signature is written in a cursive style with a long horizontal flourish extending to the right.

JAMES E. RYAN  
ATTORNEY GENERAL