

RECORDER OF DEEDS: When a chattel mortgage on a motor vehicle is recorded, the recorder of deeds should certify the fact on the certificate of title.

February 26, 1951

3-1-51



Mr. Anthony J. Denny
Recorder of Deeds
City of St. Louis
St. Louis, Missouri

Dear Sir:

We have given careful consideration to your recent request for an official opinion, which request is as follows:

"I request an opinion upon the following question:

"Section 443.480, R. S. Mo. 1949, relates to the filing of chattel mortgages on motor vehicles. Such section provides that the recorder of deeds, upon request of the mortgagee, shall certify on the certificate of title to the mortgaged motor vehicle that the chattel mortgage has been filed, showing the date, the amount of the mortgage and the name of the payee.

"My question is: If the chattel mortgage is recorded instead of filed, should the recorder of deeds certify on the certificate of title that the chattel mortgage has been recorded."

This question may be resolved by construction of Sections 443.460 and 443.480, RSMo. 1949. Section 443.460 is as follows:

"No mortgage or deed of trust of personal property hereafter made shall be valid against any other person than the parties thereto, unless possession of the mortgaged or trust property be delivered to and retained by the mortgagee or trustee

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or cestui que trust, or unless the mortgage or deed of trust be acknowledged or proved and recorded in the county in which the mortgagor or grantor resides, in such manner as conveyances of land are by law directed to be acknowledged or proved and recorded, or unless the mortgage or deed of trust, or a true copy thereof, shall be filed in the office of the recorder of deeds of the county where the mortgagor or grantor executing the same resides, and in the case of the city of St. Louis, with the recorder of deeds for said city, or, where such grantor is a nonresident of the state, then in the office of the recorder of deeds of the county or city where the property mortgaged was situated at the time of executing such mortgage or deed of trust; and such recorder shall endorse on such instrument or copy the time of receiving the same, and shall keep the same in his office for the inspection of all persons; and such mortgage or deed of trust, or copy thereof, may be so filed, although not acknowledged, and shall be as valid as though the instrument were fully spread upon the records of the county, or, in the case of the city of St. Louis, upon the records of said city, in the office of the recorder of deeds; and such instrument, when acknowledged and recorded, or when the same, or a copy thereof, shall have been filed, as above provided, shall thenceforth be notice of the contents thereof to all the world."

This statute provides two ways in which a chattel mortgage or deed of trust may be lodged for record in the office of the recorder of deeds. The instrument may be recorded and returned to its owner; or the instrument itself, or a true copy thereof, may be deposited and kept in the files of the office. The mortgagee or trustee may employ either of these two methods. In either case the effect is the same.

Section ~~43~~3.480, RSMo. 1949, is as follows:

"It shall be the duty of the recorder of deeds on request of the mortgagee, or his assignee,

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to certify on the certificate of title to the mortgaged motor vehicle, that such chattel mortgage has been filed showing the date, the amount of the mortgage and the name of the payee. When such chattel mortgage is released it shall be the duty of the recorder to so show on the certificate of title. In all counties now or hereafter having a population of three hundred thousand inhabitants or less the recorder shall receive for services herein provided a fee of twenty cents; in all counties now or hereafter having a population of three hundred thousand inhabitants or more the recorder shall receive for services herein provided a fee of thirty cents. A mortgage on a motor vehicle shall not be notice to the whole world, unless the record thereof is noted on the certificate of title to the mortgaged motor vehicle, as herein provided; provided, however, that the provisions of this section shall not apply to chattel mortgages given to secure the purchase price or any part thereof or to a motor vehicle sold by the manufacturer or their distributing dealers, or to a chattel mortgage given by dealers to secure loans on the floor plan stock of motor vehicles."

Under this law the recorder of deeds, when requested, must certify and make certain entries on the certificate of title to a mortgaged motor vehicle when such chattel mortgage has been "filed" in his office. The term "filed" is used here in a broad sense. It means that the instrument is lodged in the office either to be recorded in the books or to be kept in the files. It was not the intention of the legislature to make one plan more effective than the other. The law clearly makes it the duty of the recorder to render the same service in either case, regardless of whichever means the mortgagee may choose to employ.

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CONCLUSION

It is the opinion of this department that when a chattel mortgage on a motor vehicle is recorded, the recorder of deeds is under duty to certify the fact on the certificate of title, in the same manner as if the instrument had been filed for deposit in the files of his office.

Respectfully submitted,

B. A. TAYLOR
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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