

PUBLIC OFFICERS:
RECORDER OF DEEDS:
FEES AND SALARIES:
COMPENSATION:

The fee provided by Section 59.490, V.A.M.S., for adding names to the alphabetical list and furnishing certified copies of veterans' discharges may be retained by the recorder of deeds as unaccountable fees and is not to be considered in determining the maximum amount which the recorder may retain set forth in Section 59.250, V.A.M.S.

October 13, 1960

#190

Mr. Donald J. Parker
Recorder of Deeds
Dunklin County
Kennett, Missouri



Dear Mr. Parker:

We have received your letter of May 17, 1960, in which you requested an opinion of this office regarding Section 59.490, V.A.M.S.

For sake of brevity, we have paraphrased the question you asked so as to read as follows:

Are the fees provided by Section 59.490 V.A.M.S., to be retained by the recorder of deeds in counties of the third class wherein there is a separate circuit clerk and recorder as unaccountable fees, or must they be included as a part of the maximum amount which the recorder may retain under the provisions of Section 59.250, V.A.M.S.?

Section 59.490, supra, originated in House Bill No. 772 of the 63rd General Assembly. As originally enacted, it was applicable to third class counties wherein the circuit clerk and recorder of deeds were separate offices. It provided in part that:

"* * * For each name which the recorder shall append to the aforesaid alphabetical list, and for each certified copy of such discharge as he shall furnish, the recorder shall receive the sum of fifty cents, to be paid out of the county treasury, which fees shall not be deemed to be accountable fees in determining the maximum amount which the recorder may retain as set forth in Section 59.250; * * *"

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A portion of Senate Bill No. 70, 70th General Assembly, repealed Sections 52.490 and 59.500, RSMo 1949, and Section 59.505, RSMo Cum. Supp. 1957, and enacted a new section, 59.490, wherein the provisions of former Sections 59.490, 59.500 and 59.505 were combined into a single section to be applied in all counties to which the former three sections had applied.

Section 59.490, as found in Senate Bill No. 70, reads as follows:

"1. The recorder in counties of the third class and the circuit clerk and recorder in counties of the third and fourth classes wherein the offices have been combined, as the recorder of the county, shall prepare and keep a separate alphabetical list of the names of all residents of the county who have been discharged from the armed forces of the United States. The list shall show the veteran's name, post office address, and the branch of service from which he was discharged, the date of his discharge and the date of the recording of same, together with the book and page wherein the discharge is recorded. The list shall be maintained by the recorder for public inspection and shall be up to date at all times; and in addition thereto, the recorders shall furnish to all persons who have reported their discharge from the armed forces of the United States one certified copy of the discharge upon request of the veteran, or if the veteran has deceased since the recording thereof, then by his heir, executor or administrator. A veteran is deemed a resident of the county for the purposes of this section if he resided in the county prior to his induction into the armed forces, and returned there upon his discharge, or if he has resided in the county for more than ninety days next prior to the recording of the discharge with the intention of making the county his domicile.

"2. For each name which the recorder or ex officio recorder appends to the alphabetical list, and for each certified copy of the

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discharge that he furnishes, he shall receive the sum of fifty cents, to be paid out of the county treasury. The fees shall not be deemed to be accountable fees in determining the maximum amount which the recorder may retain as set forth in section 59.250 and shall not be deemed to be accountable fees within the meaning of section 59.260." (Emphasis ours)

It is to be noted that, except for minor grammatical changes, numbered paragraph 2 of the present Section 59.490, which relates to fees, is identical to the fee provision contained in said section when it was enacted originally in 1945.

Section 59.250, V.A.M.S., was enacted in its present form in 1953. It reads as follows:

"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 59.365 and four thousand dollars for other duties imposed by law, shall be paid into the county treasury after paying out of such fees and emoluments such amounts for deputies and assistants in his office as the county court may deem necessary."

On the surface Sections 59.250 and 59.490, supra, appear to be repugnant inasmuch as one (Section 59.250) provides that all fees over and above \$4,750, after payment of certain expenses, shall be paid into the county treasury, whereas the other section (59.490) provides that a specific fee shall not be included as a part of the \$4,750 which the recorder is entitled to retain as compensation.

It is a well established rule of construction that where two statutes relate to the same subject, they must be read together, and provisions of the one having a special application to a particular subject will be deemed to be a disqualification of, or an exception to, the other act which is general in its terms. Dalton v. Fabius River Drain. Dist, 219 SW2d 289; Fleming v. Moore Bros

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Realty Co., 251 SW2d 8; Lazonby v Smithey, 131 SW 708; Eagleton v. Murphy, 156 SW2d 960. This is true regardless of the date when the general statute was enacted. U.S. v. Hess, 70 F2d 142, rehearing den. 71 F2d 78; State ex rel. Equality Savings and Build. Assn. v. Brown, 68 SW2d 55.

It is our opinion that Section 59.250, supra, which relates to the subject of fees in general, is a general statute, and that Section 59.490, supra, is a special statute dealing with specific fees derived from a specific source. Since Section 59.490, supra, is a special statute, then, under the rule set out hereinabove, it prevails over Section 59.250, supra, and by its provisions the recorder of deeds in a third class county (wherein the recorder of deeds and circuit clerk are separate offices) is entitled to retain the fees he receives for adding names to the alphabetical list and furnishing certified copies of veterans' discharges; and these fees are not to be considered in determining the maximum amount which the recorder may retain as set forth in Section 59.250.

CONCLUSION

Therefore, it is the opinion of this department that the fee provided by Section 59.490, V.A.M.S., for adding names to the alphabetical list and furnishing certified copies of veterans' discharges, may be retained by the recorder of deeds as unaccountable fees and is not to be considered in determining the maximum amount which the recorder may retain set forth in Section 59.250, V.A.M.S.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Calvin K. Hamilton.

Yours very truly,

JOHN M. DALTON
Attorney General