

Date Issued: June 5, 1981 (AGO 81-55)

Requested by: Senator Chuck Goodman

- QUESTION PRESENTED -

Whether a register of deeds may charge a filing fee for filing reports of full consideration pursuant to subsection 1 of section 11-18-02.2 of the North Dakota Century Code.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that a register of deeds may charge a three dollar filing fee for filing reports of full consideration pursuant to subsection 1 of section 11-18-02.2, N.D.C.C.

- ANALYSIS -

Section 4 of Senate Bill No. 2323 passed by the 1981 Legislative Assembly created a new section of law relating to statements of full consideration which has been codified as section 11-18-02.2, N.D.C.C. Subsection 1 of that section reads as follows:

1. Any grantee or his authorized agent who presents a deed in the office of the county register of deeds shall certify on the face of the deed any one of the following:
 - a. A statement that he has filed a report of the full consideration paid for the property conveyed with the state board of equalization.
 - b. A statement that he has filed a report of the full consideration paid for the property conveyed with the register of deeds.
 - c. A statement of the full consideration paid for the property conveyed.
 - d. A statement designating one of the exemptions in subsection 6 which the grantee believes applies to the transaction.

Section 11-18-05, N.D.C.C., reads, in part, as follows:

11-18-05. FEES OF REGISTER OF DEEDS. The register of deeds shall charge and collect the following fees.

* * *

2. For filing any instrument, including instruments under the Uniform Commercial Code, notices of intent to drill, and monument corner records, three dollars.

A report of the full consideration paid filed with a county register of deeds pursuant to subdivision b of subsection 1 of section 11-18-02.2, N.D.C.C., is an instrument within the meaning of subsection 2 of section 11-18-05, N.D.C.C., for which a three dollar filing fee shall be charged. That subsection clearly applies to the filing of any instrument and the list contained therein is not all inclusive.

This opinion applies only to reports filed pursuant to section 11-18-02.2(1)(b), N.D.C.C., since it refers to a document filed separate from the deed itself. The statements required by subdivisions a, c, and d and a statement pursuant to subdivision b that the report has been filed are to appear on the face of the deed and there is no basis for charging an additional filing fee for those statements contained on the face of the deed.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts or the applicable provisions of law are amended or repealed.

ROBERT O. WEFALD
Attorney General

Prepared by: John W. Morrison
Assistant Attorney General