

OFFICE OF THE ATTORNEY GENERAL



91-00338

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STATE OF ALABAMA

JUL 30 1991

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Honorable L. W. Noonan
Judge of Probate
P. O. Box 7
Mobile, Alabama 36601

Deputy Registrars - Fees -
Recordation of Instruments - Oaths

Since taking and filing an oath is not required by a deputy registrar, if a deputy registrar takes an oath of office and wishes to file it in the probate court, a filing fee must be imposed.

Dear Judge Noonan:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

If a deputy registrar takes an oath of office and insists on recording it in the probate court, although not required to do so, is the imposition of a filing fee proper?

FACTS AND ANALYSIS

On May 21, 1991, this office issued an opinion to you which stated that a registrar is required to file an oath of office in the probate court, but the probate court is not required to

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impose a filing fee and a deputy registrar is not required to take or file an oath of office. We understand that many, if not all, deputy registrars do take an oath of office. However, even if a deputy registrar takes an oath of office, he is not required to file it in the probate court. If a deputy registrar wishes to have his oath filed in the probate court, it is our opinion that a filing fee must be imposed. See Code of Alabama 1975, § 12-19-90. We suggest that you inform any deputy registrar that seeks to have his oath of office filed that filing is not required but it may be filed if the proper fee is paid.

CONCLUSION

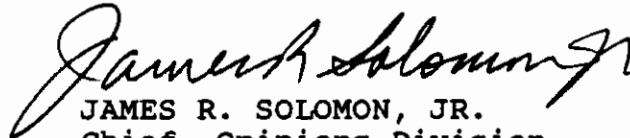
Since taking and filing an oath is not required by a deputy registrar, if a deputy registrar takes an oath of office and wishes to file it in the probate court, a filing fee must be imposed.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General

By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

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