7. When a recipient of medical aid under this act changes his residence from one county to another within this state, county responsibility should be transferred upon the establishment of a new county residence and a new application should be filed.

OFFICIAL OPINION NO. 30

June 25, 1964

Hon. A. Morris Hall
State Senator
302 Marion National Bank Building
Marion, Indiana

Dear Senator Hall:

This is in answer to your letter of May 14, 1964, wherein you request an Official Opinion from me, pertaining to the proper charge for the recording of school fund mortgages, in view of the provisions contained in the Acts of 1963, Ch. 204.

The third paragraph of your letter reads as follows:

"The specific question to be answered is whether or not the County Recorder who uses the photographic reproduction method shall charge $2.00 for the first page and $1.00 for each page thereafter on a school fund mortgage or shall charge the sum of $1.00."

The answer to your question requires an examination of the Acts of 1955, Ch. 322, Sec. 1, and the amendments thereto, the last amendment being made by the Acts of 1963, Ch. 204, Sec. 1, and found in Burns' (1963 Supp.), Section 49-1308a, which reads, in part, as follows:

"The recorders of the various counties of this state shall, on behalf of their respective counties, tax and collect, upon proper books to be kept in their offices for that purpose, the fees and amounts provided herein on account of services rendered by said recorders. The fees and amounts so taxed, which shall be in full for all services of the recorder, shall be designated as
'Recorder's Costs': Provided, that they shall not belong to or be the property of the recorder and shall be paid into the county treasury at the close of each calendar month. The fees so taxed and collected shall be as follows:

*(2)* For examining records and certifying to liens for any school fund mortgage, fifty cents ($0.50); and for recording school fund mortgages, one dollar ($1.00).

*(21)*

'That notwithstanding any provisions to the contrary the recorders of the various counties of this state, shall on behalf of their respective counties, tax and collect upon proper books to be kept in their offices for that purpose, the fees and amounts provided herein on account of services rendered by said recorders. The fees and amounts so taxed which shall be in full for all services of the recorder, shall be designated as 'Recorder's Cost': Provided, That they shall not belong to or be the property of the recorder, but shall belong to and be the property of the county and shall be paid into the county treasury at the close of each calendar month. The fees so taxed and collected shall be as follows:

"1. Where any document is recorded by any photographic reproduction method, two dollars ($2.00) for the first page and one dollar ($1.00) for each page thereafter regardless of the number of words on such page and provided such page is not larger than a legal size page.

"2. A legal size page is hereby defined as not exceeding 9 inches in width and 15 inches in length." (Our emphasis)

Historically, our first statutory reference to a recording fee charge specifically designating school fund mortgages, is contained in Acts of 1943, Ch. 251, Sec. 16, as found in Burns' (1948 Repl.), Section 28-220, which reads, in part, as follows:
"The following fees, only, shall be charged in cases of mortgages for loans for recording the mortgage, one dollar [$1.00]; for clerk's certificate, fifty cents [50c]; for the recorder's certificate, fifty cents [50c]." (Our emphasis)

The Acts of 1955, Ch. 322, Sec. 1, supra, as originally enacted did not contain any specific reference to a recording charge for school fund mortgages. Said act, as first enacted, contained the following general provision pertaining to mortgages:

"(2) Two dollars for the recording of mortgages"

The 1955 Act, supra, also contained the following general repeal section:

"Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed."

The 1959 Legislature, apparently in the belief that the 1955 Act, supra, had repealed the specific school fund mortgage recording fee charge, amended the 1955 Act, by the Acts of 1959, Ch. 147, Sec. 1, which contains the present provision for the recording fee charge of school fund mortgages, as found in Burns' 49-1308a, supra, which reads as follows:

"(2) For examining records and certifying to liens for any school fund mortgage, fifty cents [$0.50]; and for recording school fund mortgages, one dollar [$1.00]." (Our emphasis)

Thus, the 1959 amendment added a specific provision for recording school fund mortgages and fixed the fee charge at one dollar [$1.00], exactly the same amount provided in the 1943 Act, supra.

The 1955 Act, supra, was next amended by the 1963 Legislature through the addition of the following wording, as now shown in Burns' 49-1308a, supra, namely:

"(21) * * *"
“That notwithstanding any provisions to the contrary the recorders of the various counties of this state shall, on behalf of their respective counties, tax and collect, upon proper books to be kept in their offices for that purpose, the fees and amounts provided herein on account of services rendered by said recorders. The fees and amounts so taxed, which shall be in full for all services of the recorder, shall be designated as 'Recorder's Cost': Provided, That they shall not belong to and be the property of the recorder, but shall belong to and be the property of the county and shall be paid into the county treasury at the close of each calendar month. The fees so taxed and collected shall be as follows:

“1. Where any document is recorded by any photographic reproduction method, two dollars [$2.00] for the first page and one dollar [$1.00] for each page thereafter regardless of the number of words on such page and provided such page is not larger than a legal size page.

“2. A legal size page is hereby defined as not exceeding 9 inches in width and 15 inches in length.”

The primary object of statutory construction is to ascertain and effectuate the intent of the Legislature, as shown by the whole act, the law existing before its passage, the changes made and the apparent motive for making them.

State ex rel. Rogers v. Davis (1952), 230 Ind. 479, 482, 104 N. E. (2d) 382;

1955 O. A. G., pages 81, 84, No. 23.

A fundamental rule of statutory construction is found in Sutherland Statutory Construction, 3rd Ed., Vol. 2, Sec. 4705, p. 339, which reads as follows:

“'It is an elementary rule of construction that effect must be given, if possible, to every word, clause and sentence of a statute.' A statute should be construed...
so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant, and so that one section will not destroy another unless the provision is the result of obvious mistake or error.”

The clear import of the 1963 amendment, as shown in Burns’ 49-1308a(21), supra, is indicative of the intent of the Legislature to take cognizance of the use of photographic reproduction methods and the adoption of such methods, by counties, for use by their county recorders. The effect of the 1963 amendment, supra, was to make an increased charge for recording fees, in every instance where the recording is done by a photographic reproduction method. The legislative intent, is clearly shown, that this increased charge was to be made applicable to all specific recordings provided for in Burns’ 49-1308a, supra, subparagraphs (1) to (18) inclusive, wherever a charge is originally provided for. This naturally includes subparagraphs (2) pertaining to school fund mortgages. To say, that the increased recording charge does not apply to school fund mortgages would be to hold the 1963 amendment inoperative, superfluous and meaningless.

Therefore, in my opinion, where a county recorder employs any photographic reproduction method for the recording of school fund mortgages, or other instruments as enumerated in Burns’ 49-1308a, supra, except where no charge is originally provided for, the recording fees shall be two dollars [$2.00] for the first page and one dollar [$1.00] for each page thereafter regardless of the number of words on such page and provided such page is not larger than a legal size page. It is my further opinion that where a county recorder does not employ any photographic reproduction method, then the recording charges shall be those shown in Burns’ 49-1308a, supra, subsections (1) to (18) inclusive.