



**THE ATTORNEY GENERAL
OF TEXAS**

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

AUSTIN, TEXAS 78711

May 8, 1968

Hon. James E. Barlow
Criminal District Attorney
Bexar County
San Antonio, Texas 78204

Opinion No. M-230

Re: Filing fees and appeal
bonds in connection with
appeals from justice court.

Dear Mr. Barlow:

You have asked our opinion as to whether an appellant from the justice court must pay a filing fee to the county clerk under the provisions of Section 1 A(1)(a) of Article 3930(b), Vernon's Civil Statutes, in addition to providing an appeal bond, in view of the provisions of Article 3930(b) and Rule 571, Texas Rules of Civil Procedure.

Rule 571 provides, in part, as follows:

"The party appealing . . . shall . . . file with the justice a bond . . . conditioned that appellant shall prosecute his appeal to effect, and shall pay off and satisfy the judgment which may be rendered against him on appeal . . . When such bond has been filed with the justice, the appeal shall be held to be thereby perfected and all parties to said suit or to any suit so appealed shall make their appearance at the next term of court to which said case has been appealed. . . ."

Article 3930(b) prescribes the fees that county clerks and clerks of county courts are authorized and required to collect, which include filing fees for each cause of action or docket in county civil courts.

We agree with your conclusion that no conflict exists between the provisions of Article 3930(b), providing for filing fees, and Rule 571, providing for filing of appeal bonds. The appeal bond requirement is for the purpose of assuring payment of judgment and costs. The filing fee constitutes fees county clerks are authorized to collect for services rendered by them in the filing of various instruments.

In Attorney General's Opinion M-170 (1967), construing the provisions of Article 3930(b), it was stated that no conflict exists between its provisions and the provisions of

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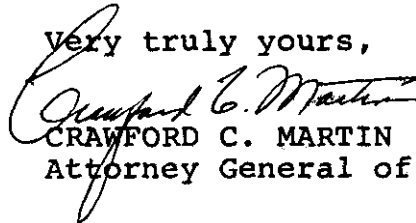
Section 428 of Chapter X of the Texas Probate Code. See also Attorney General's Opinions M-128 (1967), M-133 (1967), M-134 (1967), M-135 (1967), M-148 (1967), and M-168 (1967), concerning the effect of the enactment of House Bills 78 and 80 of the 60th Legislature, Regular Session, concerning fees of county and district clerks on existing laws.

In view of the foregoing, you are advised that we agree with your opinion that there is no conflict between Rule 571 and Article 3930(b), Section 1 A(1)(a), and that both an appeal bond and a filing fee are now required.

S U M M A R Y

There is no conflict between Rule 571, Texas Rules of Civil Procedure, and Article 3930(b), Section 1 A(1)(a), Vernon's Civil Statutes, and both an appeal bond and a filing fee are now required.

Very truly yours,



CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

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