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STATE CAPITOL  
PHOENIX, ARIZONA

September 21, 1966

DEPARTMENT OF LAW LETTER OPINION NO. 66-34-L (R-111)

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REQUESTED BY: THE HONORABLE RICHARD J. RILEY  
Cochise County Attorney

QUESTION: Is it lawful for a legally appointed, qualified and acting deputy sheriff to be paid, in addition to his regular salary, a fee for the posting of sale cards on property subject to deed by virtue of delinquent tax proceedings?

ANSWER: No.

The fee in question is collected pursuant to A.R.S. § 11-445(A) which provides, in pertinent part, as follows:

"A. The sheriff shall receive the following fees in civil actions:

. . .

"10. Posting the advertisement for sale under execution, or any order of sale, two dollars."

Upon collection of said fee the sheriff's subsequent duties are articulated in A.R.S. § 11-446 which provides:

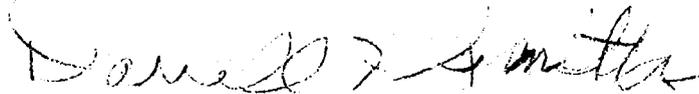
"The sheriff shall pay into the county treasury, on the first Monday of each month, all fees and mileage earned and collected by him."

It is the opinion of this office that any action taken in relation to the fees collected by a sheriff or by his lawfully

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appointed and acting deputy otherwise than as provided by A.R.S. § 11-446 is unlawful. A deputy sheriff is in exactly the same position as the sheriff: Where the statute sets a statutory fee no additional fee can be collected.

Respectfully submitted,



DARRELL F. SMITH  
The Attorney General

DFS:mr