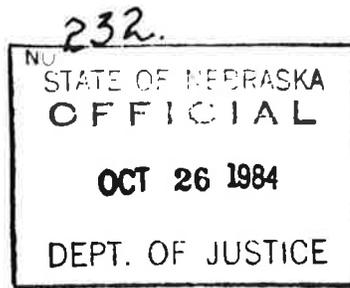


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

October 26, 1984



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Deputy Attorney General
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SUBJECT: County Clerk and Register of Deeds; Fees; Uniform Commercial Code

REQUESTED BY: Loren L. Lindahl, Saunders County Attorney, Wahoo, Nebraska

OPINION BY: Paul L. Douglas, Attorney General
L. Jay Bartel, Assistant Attorney General

QUESTION: Should the County Clerk or Register of Deeds assess a fee for the recording and indexing of a termination statement?

CONCLUSION: No, Neb.Rev.Stat. §9-403(5) (Supp. 1984) specifically provides no fee shall be assessed for the filing of a termination statement.

You have requested our opinion regarding an apparent conflict between the provisions of Neb.Rev.Stat. §§33-109 and 33-112 (Supp. 1983), and Neb.Rev.Stat. §9-403(5) (Supp. 1984). Section 33-109 provides for the payment of a fee of \$5 per page to the Register of Deeds and County Clerk "for recording a deed, mortgage, . . . , or recording any other instrument." Section 33-112 further provides a fee of fifty cents to be paid to the Register of Deeds or County Clerk "For entering each instrument presented for record in the numerical index. . . ." Subsection (5) of §9-403, which establishes a uniform fee of \$5 for the filing and indexing of "an original financing statement, an amendment, a separate statement of assignment, a continuation statement, a partial release, or a full release," specifically provides, "[T]here shall be no fee for the filing of a termination statement."

The rule is well-established that "[S]pecial provisions of a statute in regard to a particular subject will prevail over general provisions in the same or other statutes so far as there

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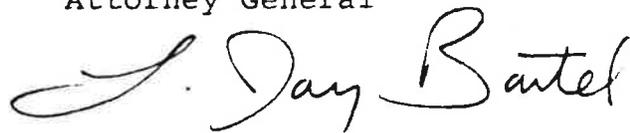
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is a conflict." Kibbon v. School District of Omaha, 196 Neb. 293, 242 N.W.2d 634 (1976). Furthermore, "[W]here general and special provisions of statutes are in conflict, the general law yields to the special, without regard to priority of dates in enacting the same, and a special law will not be repealed by general provisions unless by express words or necessary implication." Communication Workers of America, AFL-CIO v. City of Hastings, 198 Neb. 668, 254 N.W.2d 695 (1977).

Applying these rules of statutory construction to the above-cited statutory provisions, we conclude that the plain and specific language of §9-403(5), providing "there shall be no fee for the filing of a termination statement," controls over the general provisions of §§33-109 and 33-112 relating to filing and indexing fees payable to the Register of Deeds and County Clerk. It is therefore our opinion that the Register of Deeds should not assess a fee for the filing and indexing of termination statements.

Very truly yours,

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APPROVED:



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