

**OPINION
45-302**

December 18, 1945 (OPINION)

VETERANS

RE: Free Recording Discharge Papers

This will acknowledge your letter of December 13, in which you state that the attorney general of the state of Illinois has recently given an opinion in connection with the recording of honorable discharge certificates from the Army of the United States, which in effect holds:

- 1) That free recording of honorable discharges is available to all veterans in the county recorder's office in all of the counties of the state of Illinois;
- 2) That all county recorders in Illinois are required to furnish free certified copies of discharge certificates, when such copies are to be used to establish eligibility for benefits through the United States Veterans' Administration; and
- 3) You state that an exception applies only to Cook County of the state of Illinois, in which the county recorder is not required to furnish without charge certified copies of discharge certificates, regardless of the purpose for which they are wanted by veterans.

You want to know whether or not free recording service of discharges of veterans is available in the state of North Dakota and, if so, whether there is any limit to the number of copies which must be recorded free. You also want to know whether there would be any exception, if copies were to be used to determine eligibility for federal benefits.

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Chapter 31 of the 1944 Special Session Laws of the state of North Dakota provides for the recording of discharges of all persons discharged from the national guard, the army, the marine corps, and other branches of the armed forces of the United States. This statute also provides that certificates issued in lieu of discharge certificates, duly authenticated or duly certified copies of records of service and discharge from any of the branches of the armed forces may be recorded in the office of the clerk of the district court of the county in

which the veteran resides, without payment of any fee whatsoever, and that such recording shall have the same force and effect as the recording of other instruments.

It thus appears, under the above statute of this state, that any discharged member of the armed forces of the United States--and that covers any branch of the armed forces--may have his discharge, or certificate issued in lieu thereof, recorded in the office of the clerk of the district court in any county in which such discharged person resides in the state of North Dakota. I do not see that it would be necessary for a veteran to have his discharge recorded in more than one county, even though he may later remove from that county to some other county of the state, as he can always procure a certified copy of the original record from the clerk of the district court of the county in which his discharge is of record.

Chapter 235 of the 1945 Session Laws provides that if any veteran, his guardian, dependent, or representative, is in need of a copy of any public record in connection with an application for benefits made available by federal or state law, the official charged with the custody of such public records shall without charge provide a certified copy of such record upon request. It thus appears that once a discharge of a veteran has been made a matter of record, the public official charged with the duty of recording such discharge and having custody of such public record, may, and is obligated, under the above statute to furnish a certified copy thereof to any veteran, his guardian, dependent, or representative, to be used in connection with any application that such veteran may make under federal or other law. There is no limit placed upon the number of certified copies available under this statute, and it is the opinion of this office that any number of copies required by a veteran, his guardian, dependent, or representative may be procured from the public official having charge of such public record, without payment of any fee for the same. The statute contemplates that a veteran or his guardian, dependent, or representative may need any number of copies and that such copies of the public record of a recorded discharge can be and shall be furnished by such official without charge.

You will see that under the statutes of the state of North Dakota, an honorably discharged veteran may have his discharge recorded without charge and that he or his guardian, dependent, or representative, can procure any number of certified copies of such recorded honorable discharge, as long as such certified copy is needed for any application that may be made for benefits available under either federal or state law.

NELS G. JOHNSON
Attorney General