

statute authorizing or prescribing a seal for the several county courts or the clerks thereof.

It should be noted at this point that a seal is often required in order for the custodian of the records, in this case the clerk of county court, to attest to copies of orders, records, proceedings, and other official documents; however, a seal is not necessary to a court of record, and the presence or absence thereof is not conclusive of a court's status as a court of record. *See* 21 C.J.S. *Courts* §§5 and 13.

As noted above, the clerk of circuit court shall be the clerk of county court except as otherwise provided by law. *See* §34.031, F. S. No amendment was made to §28.071, F. S., which provides as follows for a seal for the circuit court clerk:

28.071 Clerk's seal.—Each clerk shall provide a seal which shall have inscribed thereon substantially the words:

“Circuit Court”

“Clerk,” “(Name of county)”

which shall be the official seal of the clerk of the circuit court in that county for authentication of all documents or instruments. It may be an imprint or impression type seal and shall be registered with the department of state.

Although the circuit court clerk may be authorized to adopt the circuit court clerk's seal and use the same in his capacity as clerk of the county court, this course might very well prove to be confusing and therefore inappropriate, especially in those counties having a separate office of clerk of the county court. *See* *Stockton v. Powell*, 10 So. 688 (Fla. 1892).

It would appear, however, that §92.12, F. S., would authorize any custodian of official documents or records to adopt and use a private seal if he or the office he holds does not have an official seal.

Since there is, except for the one instance noted, no statutorily authorized or prescribed seal for the custodian of the records of the county court and no seal provided for the court itself or the judge thereof, it would appear that §92.12, F. S., would be applicable in the instant situation.

Therefore, until legislatively or judicially clarified or determined otherwise, it would appear appropriate for those persons who are performing the duties of, or who are serving as, clerk of the county court and who are the custodians of the records, proceedings, and documents of the county court to adopt a private seal for the purpose of authenticating, exemplifying, attesting, or certifying official orders, records, proceedings, and documents of the county court and to utilize such seal for said purposes.

The form and design of the seal are up to the discretion of the individual, but it would appear appropriate, until the judiciary or legislature makes a determination or provision to the contrary, to utilize a design and form of seal similar to that of the seal of the clerk of circuit court as provided in §28.071, F. S. Further, it would appear appropriate for the custodian to register his seal with the Department of State as provided in §28.071, as it regards the registration of the seal of the clerk of circuit court.

073-71—March 22, 1973

STANDARDS OF CONDUCT

APPLICABILITY TO TITLE INSURANCE COMPANY

To: *Circuit Court Judge*

Prepared by: *Rebecca Bowles Hawkins, Assistant Attorney General*

QUESTION:

Is a real estate title insurance company subject to regulation by the state within the purview of §112.313(2), F. S.?

SUMMARY:

A public officer or employee is required by §112.313(2), F. S., to disclose an interest as officer, director, agent, or member of, or owner of a controlling interest in, a company engaged in the business of writing title insurance policies in this state.

It might be noted that Art. III, §18, State Const. requires the legislature to prescribe a code of ethics for "all state employees and *nonjudicial* officers prohibiting conflict between public duty and private interests . . ." (Emphasis supplied.) and that the Canons of Ethics for Judges (32 F.S.A., Cumulative Annual Pocket Part for use in 1972-73, pp. 89 and 90) require a judge to file with the Judicial Qualifications Commission a financial statement including, among others, a "verified list of the names of the corporations and other businesses in which he has a financial interest." This financial statement is confidential and may not be disclosed except in the limited circumstances provided by the canons. Thus, there is some question as to whether the legislature intended to include circuit judges among the public officers and employees who are subject to the Standards of Conduct Law. Assuming *arguendo*, however, that judges are required to file the sworn statement referred to in §112.313(2), *supra*, your question is answered as follows:

Section 112.313(2), *supra*, requires a public officer to disclose an interest as officer, director, agent, or member of, or owner of a controlling interest in, any business entity that is subject to the regulation of, or that has substantial business commitments from, any state agency, county, city, or other political subdivision of the state. You apparently have the view that the real estate title company on whose board you serve as a director does not have substantial business commitments with any public agency, and your only concern is as to whether it is subject to the regulation of any public agency within the purview of §112.313(2). You state that the title company in question writes title insurance policies as the agent of a title company located in another city in this state.

In AGO 072-172 I noted that the purpose of the Standards of Conduct Law is to make sure that public officers and employees will not have any interest, financial or otherwise, direct or indirect, or engage in any activity, which is in substantial conflict with the proper discharge of their duties in the public interest, and that

. . . the purpose that §112.313(2) is apparently designed to achieve in connection with this general overall purpose is to bring out into the open any presently or potentially conflicting interests that public officers or employees might have in business entities that are affected with a public interest sufficiently substantial to justify the exercise of the state's regulatory powers, or which have acquired some public interest by reason of substantial business commitments from a public agency.

As noted by you, a real estate title company is expressly excepted from the requirements of part I of Ch. 626, F. S., relating to the licensing of insurance agents. *See* §626.022. However, many of the statutes relating specifically to title insurers would apply to a title company writing title insurance policies as the agent of another company or the insurer. *See*, for example, §626.966, F. S., prohibiting a title insurer or any member, employee, attorney, agent, or solicitor thereof from giving any rebate as an inducement to title insurance; §627.778, F. S., requiring a title insurance policy to show on its face the dollar amount of the risk assumed and prohibiting the assumption of a risk above a certain amount; and §627.780, prohibiting any person from knowingly quoting or receiving a premium for title

insurance less than the minimum risk rate premium promulgated by the department.

In these circumstances, it cannot be said that a company writing title insurance policies is not subject to the regulation of the state; and it must be concluded that the sworn statement disclosing an interest as defined by the statute must be filed pursuant to §112.313(2), *supra*.

073-72—March 22, 1973

TAXATION

DELINQUENT PERSONAL PROPERTY TAXES—INTEREST RATE CHARGED

To: *Stuart Simon, Dade County Attorney, Miami*

Prepared by: *William R. Cave, Assistant Attorney General*

QUESTION:

Is 12 percent the proper rate of interest to be charged on 1972 delinquent personal property taxes?

SUMMARY:

The proper rate of interest on the 1972 delinquent personal property taxes is 12 percent pursuant to §1, Ch. 72-268, Laws of Florida [§197.062(2), F. S. (1972 Supp.)].

Your question is answered in the affirmative.

Section 1, Ch. 72-268, Laws of Florida [§197.016(1), F. S. (1972 Supp.)], provides in pertinent part the following:

All unpaid taxes upon *real and personal property* shall become delinquent on . . . and shall bear interest from the date at the rate of eighteen percent (18%) per year *until a certificate is sold* (Emphasis supplied.)

Section 1, Ch. 72-268, Laws of Florida [§197.062(2), F. S. (1972 Supp.)], concerning personal property provides the following:

(2) The tax collector shall advertise a list of the names of delinquent tangible personal property taxpayers and the amount of tax due by each, on or before April 25 of each year. The advertisement shall include a notice that *all personal property taxes are now drawing interest at the rate of twelve percent (12%)* per year, and that unless the delinquent taxes are paid before May 1, warrants will be issued thereon directing levy upon and seizure of the tangible personal property of the taxpayer for the unpaid taxes. (Emphasis supplied.)

In an effort to conform §197.062(2), *supra*, with §197.016(1), *supra*, the Statutory Revision Division deleted the words "twelve percent (12%)" in subsection 197.062(2) and replaced them with the words "eighteen percent (18%)" when it compiled and published the laws enacted during the 1972 Legislative Session. This alteration does not appear to be within the scope of the committee's powers pursuant to §11.242(5)(h), F. S. Therefore, the wording as it appears in Ch. 72-268, Laws of Florida, would be controlling until the succeeding session, at which time the legislature may enact such corrections and amendments of Ch. 197, F. S., as it may deem appropriate or necessary. *City of Coral Gables v. Brasher*, 120 So.2d 5 (Fla. 1960).