

7645 Library
15



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

October 28, 2003

Barbara T. Wasson, President
South Carolina Association of
Clerks of Court and Registers of Deeds
P. O. Box 287
Laurens, South Carolina 29360

Dear Ms. Wasson:

In a letter to this office you requested an interpretation of S.C. Code Ann. Section 8-21-310(3)(Supp. 2002) which provides the fee to be collected by clerks of court and registers of deeds in the following circumstances:

for recording an instrument which assigns, transfers, or affects a single real estate mortgage or other instrument affecting title to real property or lien for the payment of money, unless it is part of the original instrument when originally filed, six dollars; and if the instrument assigns, transfers, or affects more than one real estate mortgage, instrument, or lien, six dollars for each mortgage, instrument, or lien assigned, transferred, or affected and referred to in the instrument and an additional one dollar for each page for any instrument exceeding one page....

(emphasis added). You referenced a prior opinion of this office dated June 19, 1980 which states:

As to the question concerning whether there is a fee for recording an assignment when the assignment is recorded at the same time as a mortgage dealing with the same transaction, Section 8-21-310(3) provides no fee shall be charged for such simultaneous recording.

In your letter indicated that you disagreed with that interpretation and commented that such interpretation is inconsistent with the practice of charging separate filing fees when documents, regardless of their relationship, are filed and indexed separately. You further commented that for blanket assignments you collect six dollars for each mortgage being assigned.

As to your question regarding an assignment recorded simultaneously with a single mortgage dealing with the same transaction, Section 8-21-310(3) is quite specific in stating that no fee shall be charged for recording an assignment when the assignment is recorded at the same time as the

Robert C. Dennis

16

Ms. Wasson
Page 2
October 28, 2003

mortgage dealing with the same transaction. Again, such provision states that a six dollar fee shall be charged "unless it is part of the original instrument when originally filed". Therefore, when an assignment is filed at the same time as the single mortgage, no additional filing fee shall be charged. As to the problems you address in your letter which you indicate result from that interpretation, consideration could be given to seeking amendment by the General Assembly in the next session.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General