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HENRY McMASTER
ATTORNEY GENERAL

October 7, 2010

Ballery V. Skipper, Director
Horry County Register of Deeds
P. O. Box 470
Conway, South Carolina 29528

Dear Ms. Skipper:

In a letter to this office you questioned the appropriate recording fee for a "certificate of trust" or a "memorandum of trust" pursuant to S.C. Code Ann. § 8-21-310. You indicated that such documents "...refer to who are being appointed as trustees and their power and does not necessarily have to do with title to real estate."

You referenced that some counties charge pursuant to Section 8-21-310(9) which states that "for recording any other paper affecting title or possession of real estate or personal property and required by law to be recorded, except judicial records, ten dollars, and an additional one dollar a page for a document containing more than four pages." You also indicated that Horry County charges to record such documents pursuant to Section 8-21-210(10) which states that "for filing power of attorney, trustee qualification, or other appointment, fifteen dollars, and an additional one dollar a page for a document containing more than four pages."

When interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning and statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991); Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966).

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Consistent with such, in the opinion of this office, it appears that Horry County is correct in charging its assessment pursuant to Section 8-21-210(10) if the "certificate of trust" or "memorandum of trust" makes reference only to individuals being appointed as trustees and their power and has nothing to do with real estate.

With kind regards, I am,

Very truly yours,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General