



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

May 8, 1995

(Internal Memo)

The Honorable Charlie Lybrand
Register, Mesne Conveyances
Post Office Box 726
Charleston, South Carolina 29402-0726

Dear Mr. Lybrand:

You have requested the advice of this Office as to several questions which are set forth below:

1. May the RMC Office charge an attorney or a member of the public thirty-two cents, the cost of a stamp to return an incorrectly executed document that cannot be recorded?

As previous opinions of this Office have indicated, a fee should not be charged by Clerks of Court and Registers of Mesne Conveyances in excess of those fees provided by S.C. Code Ann. §8-21-310 (Supp. 1994), except for other services such as copying. See Ops. Atty. Gen., March 24, 1986, June 11, 1985 and June 19, 1980. The basis for charging for matters such as copying appears to be by ordinance of the county governing body pursuant to Section 4-1-150 (1986). Under the above authority, charging for the return of an incorrectly executed document should be permissible provided that it is authorized by ordinance of the county governing body.

2. May the RMC Office also charge for envelopes and the staff time necessary to determine whether an instrument is recordable?

Although the above authority might support charging for any supplies used in sending back an instrument that cannot be recorded, nothing in the above authority indicates that the county

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governing body may authorize charging for staff time to determine whether an instrument is recordable.

3. May the RMC Office take part in a computer access program whereby, for a fee, public information already available at the Office is transmitted by modem to private offices, with the fees collected going into the county's general fund?

The Freedom of Information Act authorizes the establishment and collection of fees, not to exceed the actual cost of searching for or making copies of records, or for charging a reasonable hourly rate for making records available to the public. Section 30-4-30 (1991). Records must be furnished at the lowest possible cost to the person requesting the records. Id. Under § 30-4-30 and the above authority, the county governing body appears to have the power to permit the transmission of these records for a fee set "at the lowest possible cost" and not to exceed the actual cost. Id.

This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

I hope that this information is of assistance to you.

Yours very truly,



J. Emory Smith, Jr.
Assistant Deputy Attorney General

JESjr./fg