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The State of South Carolina



Office of the Attorney General

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October 20, 1992

The Honorable Cynthia B. Forte
Register of Mesne Conveyance
for Berkeley County
223 North Live Oak Drive
Moncks Corner, SC 29461

Dear Ms. Forte:

You have requested an opinion as to the proper procedure for recording mortgage satisfactions. Specifically, you have asked whether you must search the record to determine the current holder of the mortgage prior to recording a mortgage satisfaction. In addition, you have asked whether, when two individuals are named as co-mortgagees on a mortgage, both must sign the satisfaction.

Enclosed for your information is a copy of a previous opinion of this Office which concluded that a Register of Mesne Conveyance was not required to record a mortgage cancellation which had not been signed by the assignees of the mortgage. Ops. Atty. Gen. March 29, 1985. This authority as well as the other sources below clearly indicate that a recording officer should determine whether the satisfaction has been executed by the current holder of the mortgage. For example, S.C. Code Ann. § 29-3-330 (1991) provides for methods of entering satisfaction including the "...owner or holder of the mortgage, as appears by the record of the instrument or any assignment of the instrument..." (emphasis added) appearing before the recording officer and writing a statement that the lien is satisfied. See also § 30-7-40. When the records show that a mortgage has been assigned (see § 30-7-40), the recording officer should not accept a satisfaction for recording unless executed by

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the assignee appearing of record. See also section 29-3-350. Accordingly, where two mortgagees appear of record, the satisfaction must be entered by the two mortgagees. See Ops. Atty. Gen. March 29, 1985.

I hope that this information is of assistance to you.

Yours very truly,



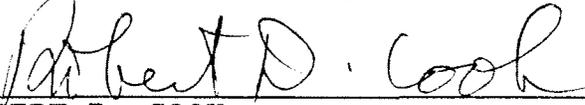
J. Emory Smith, Jr.
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JESjr/jps
Enclosure

REVIEWED AND APPROVED BY:



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