

1972 WL 25518 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 8, 1972

**\*1 Re: No. 33 Clerks of Ct. etc./Railroads**

Archie L. Harman, Esquire  
204 E. Main Street  
Post Office Box 856  
Lexington, South Carolina 29072

Dear Mr. Harman:

Attorney General McLeod referred to me your request for an opinion on the duty of a clerk of court to record a disclaimer by a railroad on the payment of the required filing fee. Generally speaking, a clerk of court has a duty to receive and record only those instruments required by law to be so received and recorded. (See 76 C.J.S. Registers of Deeds § 106 p. 514) Under South Carolina statute there appears to be no such duty on a county court clerk to file a disclaimer by a railroad. In fact, the implication is that such instruments as disclaimers are not to be filed by a clerk of court under the provisions of South Carolina Code, Title 60, Chapter 6, entitled 'Deeds of Railroads.' According to this chapter only mortgages and deeds of trust are required to be filed with a county clerk of court. (See § 60-252) Such an instrument as a disclaimer, however, can be filed with the Secretary of State under §§ 60-251 and 60-254. I think filing this disclaimer with the Secretary of State would satisfy any need or requirement for recordation.

Contact me if I can be of any further assistance.

Sincerely,

Hardwick Stuart, Jr.  
Assistant Attorney General

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