The State of South Carolina

OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

April 13, 2005

The Honorable Timothy L. Nanney
Register of Deeds, Greenville County
County Square
301 University Ridge, Suite 1300
Greenville, South Carolina 29601

Dear Mr. Nanney:

In a letter to this office you referenced the provisions of S.C. Code Ann. § 30-5-20 (Supp. 2004) which state:

> The register of deeds, or his deputy, shall be required, on application, to give a certified copy of any writing recorded in his office, the fees for such copy being first paid in advance, if required or tendered, as the case may be. If the register or his deputy shall furnish an incorrect transcript of any deed recorded, he shall forfeit and pay to the party damages that may accrue in consequence thereof.

You indicated that your office is scanning the documents filed in your office and the digitized images are on the internet. You have now had requests from the public to certify copies made from the on-line records. You have questioned whether your office may certify copies of documents that have been recorded in the Register of Deeds office which are made outside of your office from your on-line records.

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. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). Statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966). Any ambiguity in a statute should be resolved in favor of a just, equitable, and beneficial operation of the law. City of Sumter Police Dep't v. One

(1) 1992 Blue Mazda Truck, 330 S.C. 371, 498 S.E.2d 894 (Ct.App. 1998). The canon of construction "expressio unius est exclusio alterius" or "inclusio unius est exclusio alterius," which holds that "to express or include one thing implies the exclusion of another, or of the alternative," may be used as guidance in construing a statute. Hodges v. Rainey, 341 S.C. 79, 533 S.E. 2d 578 (2000).

In my opinion, your office should not certify copies of documents that are made outside of your office from on-line records. The General Assembly has expressly provided that your office "shall be required, on application, to give a certified copy of any writing recorded in his office, the fees for such copy being first paid in advance, if required or tendered, as the case may be." It is my opinion that the language of the statute, especially the provisions that your office "give a certified copy" and receive payment for such copy, indicates that you should only certify those copies made directly from your office. The expression of such intent implies the exclusion of an interpretation that certification be made of copies made outside your office from the internet. No particular reference is made to the certification of a copy made outside the office. Inasmuch as it does not appear that the General Assembly has chosen to address the certification of copies made outside your office, this office would not be in a position to authorize such certification.

If there are any questions, please advise.

Sincerely,

Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General