

8281 Liberty



HENRY MCMASTER
ATTORNEY GENERAL

November 8, 2006

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

Dear Mr. Nanney:

In a recent letter addressed to Attorney General Henry McMaster, you asked the following question: "Who is responsible for making the daily deposits and filing the Deed Recording Fee Return Form (L-2125)? In some counties the Treasurer performs these duties, in some the Register of Deeds or Clerk of Court does them, in others there is a mix." Based on our analysis below, we believe South Carolina law provides that the clerk of court or register of deeds shall have this authority. However, a county's governing body may elect to designate another office to perform this function.

Law/Analysis

Chapter 24 of title 12 of the South Carolina Code (2000 & Supp. 2005) contains provisions governing deed recording fees. Section 12-24-10 of the South Carolina Code, 2006 S.C. Acts No. 323, imposes such fees and section 12-24-50 of the South Carolina Code (2000) governs the remittance of these fees. Section 12-24-50 states:

The fee imposed by this chapter must be remitted to the clerk of court or the register of deeds in the county in which the realty is located and recorded. If the realty is located in more than one county, the person having the deed recorded in a county must state by affidavit what portion of the value of the realty is in that county and payment of the fee must be made based on the proportionate value of the realty located in that county.

S.C. Code Ann. § 12-24-50 (emphasis added). Furthermore, section 12-24-80 of the South Carolina Code (2000) provides: "Every clerk of court or register of deeds and the county shall keep and preserve suitable records to determine the amount of fee due and collected under this chapter. The clerk of court or register of deeds and the county shall keep and preserve records for five years." (emphasis added). However, 12-24-140 of the South Carolina Code (2000) allows a county's

Request Letter

The Honorable Timothy L. Nanney
Page 2
November 8, 2006

governing body to designate someone other than the clerk of court or register of deeds to collect deed recording fees. This provision states:

If the governing body of a county determines that another office of the county shall administer the collecting of the fee as provided under this chapter, the county shall notify the department of this determination and provide the department a letter from the person assigned these duties stating that he is accepting this responsibility. The office designated to collect the fee is subject to all the applicable provisions of this chapter in place of the clerk of court or register of deeds.

S.C. Code Ann 12-24-140.

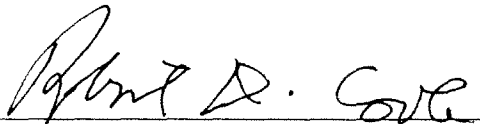
Although we were unable to locate a provision in chapter 24 of title 12 specifically dealing with who shall make the daily deposits and file the Deed Recording fee Return Form, we presume such responsibility falls upon the person charged with collecting the fee. From section 12-24-50 cited above, this may be either the clerk of court or the register of deeds for the county. However, according the section 12-24-140, the governing body of a county may designate another office to handle this responsibility, which we assume could include the county treasurer.

Very truly yours,



Cydney M. Miling
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General