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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

July 16, 2002

Barbara J. Hahn, Administrative Assistant
Horry County Register of Deeds Office
P.O. Box 470
Conway, South Carolina 29526

**Re: Your Letter of July 9, 2002
S.C. Code Ann. §8-21-310**

Dear Ms. Hahn:

In your above-referenced letter, you request an opinion from this Office concerning the recent amendments to S.C. Code Ann. §8-21-310. Specifically, you indicate that

The language states "for filing and enrolling and satisfying any tax lien....., ten dollars". Some County Offices interpret that the fee to file a tax lien is \$10.00 and to satisfy a tax lien is \$10.00, while other offices say that there is a flat fee of \$10.00 that covers the filing of the tax lien and no charge to satisfy the lien. We would appreciate some clarification and guidance on this matter so that all the counties collect the proper fee on a uniform basis.

The Language you call into question is found in subsections 8-21-310(20)(a) & (b) and provides in pertinent part that

Section 8-21-310. Except as otherwise expressly provided, the following fees and costs must be collected on a uniform basis in each county by clerks of court and registers of deeds or county treasurers as may be determined by the governing body of the county:

....

(20) for filing and enrolling and satisfaction of South Carolina and United States Government tax liens:

(a) for filing and enrolling and satisfying executions or warrants for distraint for the South Carolina Employment Security Commission, the South Carolina Department of Revenue, or any other state agency, where costs of the executions or warrants for

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distrain are chargeable to the persons against whom such executions or warrants for distrain are issued, ten dollars;

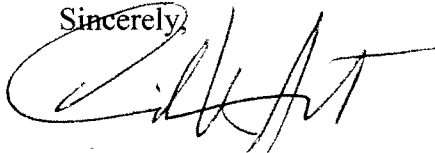
(B) for filing and enrolling and satisfying any tax lien of any agency of the United States Government, where the costs of the executions are chargeable to the persons against whom such executions are issued, ten dollars;

The South Carolina Supreme Court has consistently recognized that costs and fees "... are in the nature of penalties and the statutes granting them have always been strictly construed." State, et al. v. Wilder, 198 S.C. 390, 18 S.E.2d 324(1941). Further, other authorities have stated that "statutes providing for fees are to be strictly construed against allowing a fee by implication, with respect to both the fixing of the fee and the officer entitled thereto ..." 67 C.J.S., Officers, §224, See also, OPS. ATTY. GEN. DATED SEPTEMBER 25, 1985, AUGUST 7, 2000, & OCTOBER 11, 2000. Accordingly, applying this strict statutory construction principle to the fee provisions of Sections 8-21-310(a)&(b), it is evident that, in order for a separate fee to be charged for filing a tax lien and satisfying a tax lien, such must be clearly stated in the statute. Reviewing the language of the sections, it is further evident that there is not expressed a clear intention that separate fees be charged for the filing and satisfying of tax liens.

Based on the forgoing, it is my opinion that one fee of ten dollars (\$10.00) should be charged for the "... filing and enrolling and satisfying ..." of executions or warrants of distrain or tax liens as provided for in S.C. Code Ann. §8-21-310(20)(a) & (b).

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,



David K. Avant
Assistant Attorney General

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