

The State of South Carolina



Office of the Attorney General

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October 6, 1994

Ms. Nancy B. Tecklenburg
Deputy County Attorney
2 Courthouse Square, Room 401
Charleston, SC 29401-2263

Dear Ms. Tecklenburg:


You have asked that this Office review its opinion of May 12, 1992, in which it concluded that registers of mesne conveyances and clerks of court are not required to accept partial assignments of mortgages for recording. You attached a memorandum in which you concluded that such assignments should be recorded because S.C. Code Ann. § 30-5-90 (1991), in your opinion, requires all mortgages and other writings concerning title to land to be recorded. You also referenced § 30-9-30. All of these statutes were cited and considered in the writing of 1992 opinion.

Previous opinions of this Office are not overruled unless clearly erroneous or unless applicable law has changed. Ops. Att'y Gen. October 3, 1986. Although your arguments as to why partial assignments should be accepted are well supported, those arguments were considered in the prior opinion and a different conclusion was reached. This Office cannot conclude, at this time, that the 1992 opinion is a clearly erroneous, and it will not be withdrawn now; however, as you note, the 1992 opinion merely states that clerks and RMC's are not required to accept partial assignments and therefore, an RMC or a clerk may accept such a document for recording. Moreover, as noted in the 1992 opinion, legislative clarification of this issue may be desirable.

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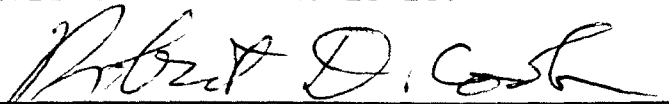
If you have any questions or need other information, please
let me know.

Yours very truly,


J. Emory Smith, Jr.
Deputy Attorney General

JESjr:ppw

REVIEWED AND APPROVED BY:



ROBERT D. COOK
Executive Assistant for Opinions