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Office of the Attorney General

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July 18, 1990

The Honorable Betty L. Williams  
Clerk of Court  
Georgetown County  
Georgetown, SC 29442

Dear Ms. Williams:

You have requested the opinion of this Office as to the correct fee to charge for assignments of leases and subordinations of mortgages. A previous Opinion of this Office concluded that the fee for the subordination of a mortgage would be provided by § 8-21-310(3) of the Code of Laws of South Carolina, 1976, which, among other matters, sets the fee for an instrument assigning, transferring or affecting a single real estate mortgage. Under the 1990 amendments to this statute, the fee for matters controlled by section 8-21-310(3) is now \$6.00. Act 531, Acts and Joint Resolutions of South Carolina, 1990. This same provision appears to be the one most applicable to the assignment of a lease or assignments of the rents thereof when paragraph 3 of section 8-21-310 is read together with paragraphs 4 and 1 of that statute. Sutherland Statutory Construction, Vol. 2A \$46.05. Under paragraph 1, the fee for recording a deed or mortgage is \$10.00, and under paragraph 4 the fee for recording a lease is \$10.00, but under paragraph 3 the fee for recording an instrument "...which assigns, transfers, or affects a single real estate mortgage or other instrument affecting title to real property or lien for the payment of money..." is \$6.00. That the larger fees in paragraphs 1 and 4 cover the original lease and mortgage and that the lesser fee in paragraph 3 applies to subsequent instruments such as assignments and transfers indicates that an assignment related to a lease would be covered under paragraph 3.

THE HONORABLE BETTY L. WILLIAMS

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In conclusion, the fee for recording either a subordination of a mortgage or an assignment of a lease would be \$6.00 under section 8-21-310(3) as amended by Act 531 of 1990. If you need additional information, please let me know.

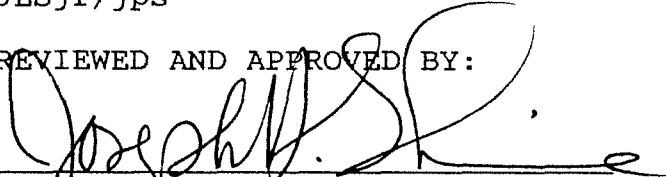
Yours very truly,



J. Emory Smith, Jr.  
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JESjr/jps

REVIEWED AND APPROVED BY:



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