

1978 S.C. Op. Atty. Gen. 173 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-139, 1978 WL 22607

Office of the Attorney General

State of South Carolina

Opinion No. 78-139

July 19, 1978

***1 SUBJECT: Documentary Stamp Taxes**

Deeds to savings and loan associations in lieu of foreclosure or pursuant to foreclosure actions require documentary stamps.

TO: Bruce W. White, Esq.
Attorney at Law

QUESTIONS:

Where a mortgagor conveys the property covered by his mortgage to Union Federal Savings and Loan Association, in lieu of foreclosure but in full and complete satisfaction of the indebtedness secured by such mortgage; and said Association, as a part of the cost of acquiring title to said property, agrees to pay for the documentary stamps on such deed; is the deed subject to South Carolina documentary stamps?

Where property is conveyed by a Special Referee or by a Clerk of Court, pursuant to a decree of foreclosure, to a federal savings and loan association; does such conveyance require the South Carolina documentary stamps?

STATUTE:

Section 12-21-380, 1976 South Carolina Code of Laws.

DISCUSSION:

The ruling of the South Carolina Tax Commission is that deeds given by Masters, sheriffs, Clerks of Court, for realty sold under foreclosure or execution are conveyances that require documentary stamps. (Publication of South Carolina Tax Commission, March 1, 1978). In the case of [Laurens Federal Savings and Loan Association v. South Carolina Tax Commission](#), 236 S. C. 2, 112 S. E. 2d 716, it was decided that a federal savings and loan is not a federal instrumentality that is generally exempt from state taxation. Although the United States Supreme Court, relying on statutory provisions exempting loan transactions entered into under the Home Owners Loan Act of 1932 as amended, reversed the holding of the South Carolina Court that documentary stamps must be fixed to notes of the association, the decision remains that savings and loans are not federal instrumentalities. We have found no cases holding to the contrary.

CONCLUSION:

Deeds to savings and loan associations in lieu of foreclosure or pursuant to foreclosure actions require documentary stamps.

G. Lewis Argoe, Jr.
Senior Assistant Attorney General

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