

1975 S.C. Op. Atty. Gen. 64 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3990, 1975 WL 22288

Office of the Attorney General

State of South Carolina

Opinion No. 3990

March 10, 1975

**\*1 Re: Number of witnesses required to record deeds and mortgages when acknowledgments are used instead of affidavits.**

The Honorable Arthur H. Burton  
Register Mesne Conveyance  
County of Charleston  
Post Office Box 726  
Charleston, South Carolina

Dear Mr. Burton:

Mr. McLeod has referred your letter of February 13, 1975, to me for answer. You specifically request an opinion as to whether or not two witnesses are still required to record deeds and mortgages when acknowledgments are used instead of affidavits. In asking this question, you referred to Sections 49–61, 57–251, and 60–51, Code of Laws of South Carolina (1962). This Office is of the opinion that two witnesses are still required to record such deeds and mortgages.

Section 60–51, Code of Laws of South Carolina (1962) provides specifically that:

Before any deed or other instrument in writing can be recorded in this State, the Execution thereof shall be first proved by the affidavit of a subscribing witness to such instrument, taken before some officer within this State competent to administer an oath. . . .

Section 60–51 further provides for execution of an affidavit to be taken without the limits of the State of South Carolina. Section 57–251, Code of Laws of South Carolina (1962) provides a form or purport of a release to carry from one person to another the fee simple of any land or real estate and provide that it be subscribed by two or more credible witnesses. Section 49–61, Code of Laws of South Carolina (1962), the first section of the ‘Uniform Recognition of Acknowledgments Act,’ simply provides a uniform method for ‘notarial acts’ performed outside the State of South Carolina. Section 49–61, Code of Laws of South Carolina (1962) (as amended), therefore, does not change the number of witnesses required to record deeds and mortgages; it simply provides a uniform method for acknowledging needs executed without the State of South Carolina.

Yours very truly,

M. Elizabeth Crum  
Assistant Attorney General

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