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STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

August 15, 1958 OPINION FILE

David S. Mellichamp, Esquire
Lawyers Abstract Company
1316 Washington Street
Columbia, South Carolina

Re: Section 65-688 Code of Laws South Carolina, 1952, tax stamps on leases

Dear Mr. Mellichamp:

Your letter of August 1, 1958, to the Attorney General has been handed to the writer for attention and reply.

You called to our attention a hesitancy on the part of certain Clerks of Court in recording leases without the South Carolina documentary stamps where such leases are wholly executed outside of South Carolina and payments under which are made outside of this State.

Under circumstances such as above indicated, it has been the position of the South Carolina Tax Commission not to require the placement of stamps thereon which position, we think, is correct under the two leading decisions dealing with documentary stamps, namely, Graniteville Manufacturing Company v. Query, 44 F. (2d) 64 and South Carolina Electric and Gas Company v. Pinckney, 60 S. E. (2d) 851.

Leases have been considered taxable as obligations to pay money which is under Section 65-688 with which, of course, the above mentioned decisions dealt.

To restate the matter, if a lease is wholly executed outside of the State of South Carolina, it is our opinion that such lease, under those circumstances, may be recorded without South Carolina documentary stamps being affixed thereto.

Sincerely,

James M. Windham
Assistant Attorney General

RECEIVED
AUG 19 1958
SOUTH CAROLINA TAX COMMISSION

JMW/br

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