

Gene V. Pruet, Esq.  
Page Two

June 6, 1974

Within the body of the Indenture, the following would also be inserted:

"Section \_\_\_\_\_. Maximum Consideration for and Lien on South Carolina Property. The maximum consideration advanced with respect to property in South Carolina under this Indenture of Mortgage, Deed of Trust and Security Instrument and the maximum indebtedness secured by the lien of this instrument on property in South Carolina is \$ \_\_\_\_\_, anything herein to the contrary notwithstanding; but this provision does not limit the lien of this instrument as to any property located otherwise than in South Carolina."

Section 65-688 taxes mortgages executed or recorded within this State. The incidence of taxation, therefore, is the creation of a mortgage if the same occurs within the State and if the mortgage is not created or executed here, then the taxing incident is for the privilege of recording the mortgage. In both, the measure of the tax is the consideration expressed.

Recording a mortgage in the State protects the holder to the extent provided, notwithstanding that the same may also have provisions which may be enforced in another state. The consideration thus expressed for the debt and lien in this State protected by recording is believed to be the proper stamp measure when the privilege of recording is the incidence of taxation. It is, therefore, concluded that under the transaction here set out, the South Carolina consideration and property is the proper measure of documentary stamps. We further are of opinion that inasmuch as the note secured by the proposed indenture is completely executed without the State, the same is not subject to documentary stamps.

Gene, if there are any further questions concerning taxation of this transaction, this office will be more than glad to give its assistance.

Yours truly,

G. Lewis Argoe, Jr.  
Assistant Attorney General

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