

2011 July



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

June 23, 2005

The Honorable Timothy L. Nanney  
Register of Deeds, Greenville County  
County Square  
301 University Ridge, Suite 1300  
Greenville, South Carolina 29601

Dear Mr. Nanney:

In a letter to this office you referenced the provisions of S.C. Code Ann. § 30-9-75 (Supp. 2004) which state:

In all cases where indices affecting real property are required to be maintained in the offices of the clerk of court or register of deeds and where these indices are maintained by electronic or computer means, the clerk of court or register of deeds shall provide at least a second or backup copy of the indices, which must be available for use by the public in the event of destruction or unavailability of the electronic indices. (emphasis added).

You indicated that you have your computerized indices merged daily, monthly, and yearly, printed and on the floor for public use. You further indicated that such practice requires a tremendous amount of time, money and space. You also stated that the indices are also backed up nightly and kept in a secure environment by the County IS Department. You indicated that you would like to stop the daily printing of computerized indices. Referencing such, you have questioned whether the nightly backup of your computerized indices by the County IS Department complies with Section 30-9-75 which would allow your office to stop the printing of indices.

When interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning. State v. Blackmon, 304 S.C.

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270, 403 S.E.2d 660 (1991). Statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966).

Section 30-9-75 plainly states that the register of deeds "...shall provide at least a second or backup copy of the indices, which must be available for use by the public in the event of destruction or unavailability of the electronic indices." In my opinion, in order to be in a form available "for use by the public" in situations where the electronic indices are destroyed or are not available, there would have to be daily printing of indices which would then make such readily available for use by the public. In my opinion, the nightly backup of the computerized indices would not sufficiently meet the requirements of Section 30-9-75.

If there are any questions, please advise.

Sincerely,



Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Assistant Deputy Attorney General