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# The State of South Carolina



## Office of the Attorney General

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August 14, 1989

The Honorable Elizabeth V. Eddins  
Clerk of Court for Chesterfield County  
Post Office Box 529  
Chesterfield, SC 29709

Dear Ms. Eddins:

You have requested the advice of this Office as to several questions concerning § 1-11-65 of the Code of Laws of South Carolina, 1989, as amended this year. Your questions relate to Paragraph A, which is set out in part, as follows:

"All transactions involving real property, made for or by any governmental bodies, excluding political subdivisions of the State, must be approved by and recorded with the State Budget and Control Board. Upon approval of the transaction by the Budget and Control Board, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the board's approval of the transaction. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The board may exempt a governmental body from the provisions of this subsection."

In particular, you have inquired as to which agencies of government must be approved by the Budget and Control Board (Board).

The agencies are described by the statute as "...any governmental bodies, excluding political subdivisions of the State...." (emphasis added) The term "governmental body" is not defined therein except that it is described, at least in part, by the use of the broadly inclusive word "any" and by the exclusion of only "political subdivisions".

"Political subdivisions" is not defined in § 1-11-65, but the term has been discussed in previous Opinions of this Office. See e.g. (February 21, 1985). For guidance, we may also refer to the description of the term "political subdivisions" in Art. X §14 of the Constitution concerning bonded indebtedness, which states that the term means "...the counties of the State, the incorporated municipalities of the State and special purpose districts, including special purpose districts which are located in more than one county or which are comprised of one or more counties." See Sutherland Statutory Construction, Vol. 2A §51.02. Therefore, those political bodies set forth in Art. X §14 are most probably excluded from the term "governmental bodies" in § 1-11-65. In addition, school districts should be excluded because they are deemed political subdivisions under South Carolina law. Ops. Atty. Gen. (February 23, 1983).

Because political subdivisions are the only governmental entities expressly excluded from "any governmental bodies" under § 1-11-65, the Legislature must have intended to include State level agencies and institutions and "any" other governmental bodies not constituting subdivisions. This conclusion is consistent with the Budget and Control Board's other duties with respect to the property of State agencies and institutions. See e.g. §§ 1-11-110; 10-1-130 and 10-7-10 of the Code. Accordingly, "[a]ll transactions involving real property, made for or by any governmental bodies excluding political subdivisions of the State [such as counties, municipalities, school districts and special purpose districts] must be approved by and recorded with the State Budget and Control Board." §1-11-65.

As to the type of certificate required to be signed by the Board and the form of notice of Board exemption of a governmental body, those matters will have to be determined by the Board. I will inform you of any decision that the Board may make as to those matters.

In conclusion, under § 1-11-65, a certificate of acceptance acknowledging the Board's approval of the transaction must be recorded with deeds involving real property transactions of governmental bodies not constituting political subdivisions such as coun-

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ties, municipalities, school districts and special purpose districts are not required to have such a certificate. The Board may exempt covered governmental bodies from this provision. The form of the certificate to be used by the Board and the form of notice by the Board of exemption of a governmental body are matters that will have to be determined within the discretion of the Board. If you have any questions, please let me know.

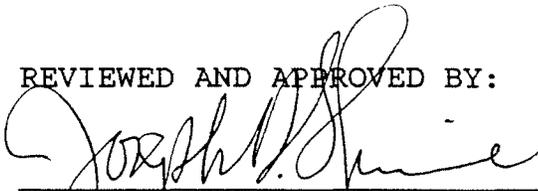
Yours very truly,



J. Emory Smith, Jr.  
Assistant Attorney General

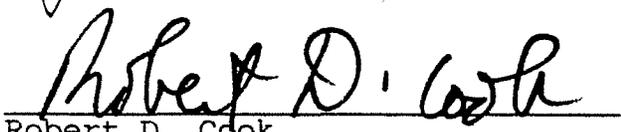
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REVIEWED AND APPROVED BY:



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