

1976 S.C. Op. Atty. Gen. 378 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4516, 1976 WL 23133

Office of the Attorney General

State of South Carolina

Opinion No. 4516

November 8, 1976

\*1 W. H. Nicholson, Jr., Esquire  
Nicholson & Nicholson  
Post Office Box 882  
Greenwood, SC 29646

Dear Mr. Nicholson:

You have requested an opinion as to the proper amount, if any, of fees to be paid to a master when the mortgagee buys in the property after a mortgage foreclosure.

The situation presents the possibility of a serious conflict between Sections 10-1775, 27-201 and 27-401. However, it is the opinion of this Office that none of these acts applies in the situation above. Section 10-1775 is a 1936 statute which set new fees for 'all services in connection with [judicial] sales for which a commission fee is authorized by law.' The sections which authorize such fees, albeit at a different rate, are Sections 27-201 and 27-401. However, Section 27-201 authorizes sales commissions only on 'moneys passing through his hands by sales.' The language 'passing through his hands' appears to clearly refer to the situation in which a third party buys the property and pays the master, who in turn pays the mortgagee; see 50 CJS, Judicial Sales, Section 12, p. 596. Since the mortgagee bought the property in this instance, no money passed through the hands of the master, and no fees for the sale are collectible by him.

Sincerely yours,

Kenneth P. Woodington  
Assistant Attorney General

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