

1975 WL 29626 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 26, 1975

*1 Mrs. L. R. Jones
26 N. Greenwood Avenue
Ware Shoals, South Carolina 29692

Dear Mrs. Jones:

You have asked whether when a title, deed, or mortgage is drawn up is it necessary that the document be signed in the presence of a Notary Public, or whether it would be permissible to have this paper probated in a day or so after it had been signed.

The Code of Laws of South Carolina (1962) sets out in § 57-251 the form necessary for a valid deed. It merely requires that the grantor sign the deed in the presence of two credible witnesses. Section 57-251 does not require a notary public seal. Under the State laws governing the recordation of deeds and other documents, § 60-51 *et sequelae*, however, notaries public do have to seal such instruments before they can be recorded. The conclusion to be reached from this therefore is that the signing of the deed by the grantor and witnesses does not have to occur in the presence of the notary. In your case, the signatures can be attached and later you may go to the notary with the witnesses to attest to the fact that the signature is actually yours. The deed can then be filed. By this filing you put other persons on notice that you are transferring title.

So the notary is not necessary for the signing. But before the deed can be filed you must have a notary seal it and this can be done after the signing ceremony has occurred.

If we can be of any further assistance, please let us know.

Sincerely,

Wally Smith
Law Clerk

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