



Bart L. Graham
Commissioner

State of Georgia
Department of Revenue

Suite 15300
1800 Century Boulevard
Atlanta, Georgia 30345
(404) 417-2100

January 22, 2008

[REDACTED]

Re: Request for a Commissioner's Letter of Determination per O.C.G.A. § 48-6-71 concerning the applicability of intangible recording tax pursuant to a refinance involving a surviving lender who is successor-by-merger. Parties are [REDACTED] (Borrower) and [REDACTED] (Lender)

Dear [REDACTED]

I am in receipt of your request per O.C.G.A. § 48-6-71, which was contained in your letter of January 4, 2008. Your subsequent letter dated January 11, 2008, with enclosed documents, was also considered in the review.


For purposes of the intangible recording tax, you asked the Department in your letter of January 4, 2008, to render a determination concerning whether or not [REDACTED] would be considered the "same lender" with respect to O.C.G.A. § 48-6-65(b), as the successor-by-merger to [REDACTED], the "original lender." [REDACTED] was listed as "Grantee" per a long-term security instrument recorded in [REDACTED] on June 17, 1996, with [REDACTED] listed as "Grantor."

It is my determination, as well as the position of the Department of Revenue, that a lender who survives a merger with another lender, who was the original lender, is standing in the same position as the original lender for the purposes of the exemption under O.C.G.A. § 48-6-65(b), unless the mortgage loan had been assigned prior to the date of the merger.


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This determination is not, however, applicable in regards to the specific facts and circumstances contained in the loan documents that accompanied your letter of January 11, 2008. The reason is that those documents necessarily involve additional issues that fall outside the scope of the specific question upon which the request for determination was predicated.

Sincerely,


Bart L. Graham

BLG/RJL/mb