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STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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State Products Mart Authority – Recordation  
Tax – Deed Tax – Mortgage Tax – Exemptions

The State Products Mart Authority Located in  
Morgan County, Alabama is exempt from deed  
tax levied in section 40-22-1 of the Code of  
Alabama and is exempt from mortgage tax  
levied in section 40-22-2 of the Code.

Dear Mr. Caddell:

This opinion of the Attorney General is issued in response to your request on behalf of the State Products Mart Authority Located in Morgan County, Alabama.

QUESTION

Is The State Products Mart Authority Located in Morgan County, Alabama (“Authority”) exempt from deed tax and mortgage tax in connection with the Authority’s purchase of some new real estate?

FACTS AND ANALYSIS

The State Products Mart Authority Located in Morgan County, Alabama was created in 1965 by section 1 of Act 174. 1965 Ala. Acts No. 174, First Ex. Sess., at 224. The act is codified at sections 41-10-80 through 41-10-109 of the Code of Alabama. Section 41-10-107 provides that “[e]ach project and the income from all leases made with respect thereto, the bonds issued by the corporation and the income therefrom and all lease agreements and *indentures* made

pursuant to the provisions of this article shall be exempt from all taxation in the state." ALA. CODE § 41-10-107 (2000) (emphasis added).

The term "indenture" is defined in section 41-10-81(12) of the Code as "[a] mortgage, an indenture of mortgage, deed of trust, trust agreement or trust indenture executed by the corporation as security for any bonds." ALA. CODE § 41-10-81(12) (2000). Black's Law Dictionary also specifically defines the word "indenture" as follows:

A written agreement under which bonds and debentures are issued, setting forth maturity date, interest rate, and other terms. A deed to which two or more persons are parties, and in which these enter into reciprocal and corresponding grants or obligations towards each other; . . . Indenture means mortgage, deed of trust, or indenture, under which there is outstanding a security, other than a voting-trust certificate, constituting a claim against the debtor, a claim secured by a lien on any of the debtor's property, or an equity security of the debtor.

BLACK'S LAW DICTIONARY 693 (5<sup>th</sup> ed. 1979). Based on the above definitions, deeds and mortgages are indentures.

As stated earlier, section 41-10-107 exempts indentures made by the State Products Mart Authority from all taxation of the state. This Office has previously determined that a public building authority is exempt from deed and mortgage privilege tax based on a provision in section 11-56-21 of the Code that contains language identical to the language in section 41-10-107 of the Code. Opinion to Honorable John L. Moore, Judge of Probate, Mobile County, dated November 15, 1982, A. G. No. 83-00076. Thus, a deed and mortgage filed by the State Products Mart Authority is exempt from the deed and mortgage taxes levied in sections 40-22-1 and 40-22-2 of the Code.

#### CONCLUSION

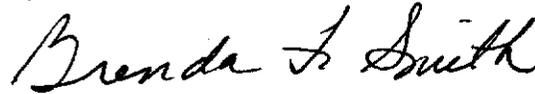
The State Products Mart Authority Located in Morgan County, Alabama, is exempt from the deed and mortgage taxes levied in sections 40-22-1 and 40-22-2 of the Code of Alabama.

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I hope this opinion sufficiently answers your question. If this Office can be of further assistance, please contact W. William Young, Legal Division, Department of Revenue.

Sincerely,

TROY KING  
Attorney General  
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH  
Chief, Opinions Division

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