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Health Care Authorities – Recordation of Instruments – Fees – Liens – Probate Judges

County health care authorities are not statutorily obligated to pay fees, taxes, or costs to a probate judge for the perfection, recordation, and release of hospital liens.

Dear Mr. Barnett:

This opinion of the Attorney General is issued in response to your request on behalf of The Marshall County Health Care Authority.

QUESTION

Does section 22-21-333 of the Code of Alabama, as amended, exempt The Marshall County Health Care Authority from paying any fees, taxes, or costs to the probate judge for the perfection, recordation, and release of hospital liens?

FACTS AND ANALYSIS

The Marshall County Health Care Authority operates two acute care facilities, Marshall Medical Center North and Marshall Medical Center South. You seek guidance from this Office on how to resolve what appears to be a conflict between various statutes, sections 35-11-370, *et seq.*, of the Code of Alabama and section 22-21-333 of the Code of Alabama. ALA. CODE §§ 35-11-370 to 35-11-375 (1991), ALA. CODE § 22-21-333 (2006).

Section 35-11-370 through section 35-11-375 of the Code set forth the manner in which a hospital may, among other things, declare, perfect, and release a lien. More specifically, section 35-11-370 of the Code states that "[a]ny . . . hospital authority . . . shall have a lien for all reasonable charges for hospital care, treatment, and maintenance of an injured person who entered such hospital within one week after receiving such injuries. . . ." ALA. CODE § 35-11-370 (1991).

None of these provisions, however, state that a hospital will be assessed by the probate judge for the charges associated with filing or removing a lien. Instead, with regard to perfection of a lien of this nature, the probate judge, at the expense of the county, is responsible for providing a hospital lien book for filing of these liens. ALA. CODE § 35-11-371 (1991).

Section 22-21-333 of the Code establishes an exemption from taxation by the state or county for health care authorities. This provision states, in pertinent part, as follows:

> All properties of an authority, whether real, personal or mixed, and the income therefrom, all securities issued by an authority and the coupons applicable thereto and the income therefrom, and all indentures and other instruments executed as security therefor, all leases made pursuant to the provisions of this article and all revenues derived from any such leases, and all deeds and other documents executed by or delivered to an authority shall be exempt from any and all taxation by the state, or by any county. . . . ***An authority shall not be obligated to pay or allow any fees, taxes or costs to the judge of probate of any county*** in respect of its incorporation, the amendment of its certificate of incorporation, ***or the recording of any document.***

ALA. CODE § 22-21-333 (2006) (emphasis added).

This Office has issued a previous opinion regarding filing fees for the recordation of a judgment of a state agency, stating that "***unless otherwise provided by law***, a probate court may legally charge a state agency for the recordation of a judgment." Opinion to Honorable Joe Sutton, Director, Alabama Commission on Higher Education, dated March 9, 1990, A.G. No. 90-00177. When an exemption statute makes no mention of recordation fees, it is the intention of the Legislature ***not*** to exempt state agencies from paying recordation fees.

Inversely, by expressly mentioning recording fees, the Legislature shows an intent to exempt state authorities from any obligation to pay recordation fees. Section 22-21-333 expressly states "[a]n authority shall not be obligated to pay . . . any fees, taxes or costs to the judge of probate of any county [for] the recording of any document." ALA. CODE § 22-21-333 (2006). This language shows the Legislature's intent to exempt health care authorities from paying recordation fees.

Under the established rules of statutory construction, words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000); *IMED Corp. v. Sys. Eng'g Assoc. Corp.*, 602 So. 2d 344, 346 (Ala. 1992). By enacting section 22-21-333, the Legislature specifically and expressly relieved health care authorities of any and all fees, taxes, and costs associated with the recording of any document, including hospital liens.

CONCLUSION

Section 22-21-333 exempts the Marshall County Health Care Authority from paying any fees, taxes, or costs to the probate judge for the perfection, recordation, and release of hospital liens.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE
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By:

BRENDA F. SMITH
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