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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

August 31, 2005

The Honorable Sue H. Roe
Judge of Probate, Aiken County
Post Office Box 1576
Aiken, South Carolina 29802-1576

Dear Judge Roe:

In a letter to this office you questioned the legality of the imposition of a fee by a county governing body for the filing of a creditor's claim against the estate of an deceased individual. You particularly referenced a fee schedule adopted by the county which provides for the collection by the probate court of a fifteen dollar fee for the filing of such a claim. It is my understanding that such fees are unique to Aiken County.

Article V, Section 1 of the State Constitution provides for a unified judicial system in this State. S.C. Code Ann. § 14-23-1010 provides that probate courts are within the unified judicial system in this State. See also State ex rel. McLeod v. Court of Probate of Colleton County, 266 S.C. 279, 223 S.E.2d 166 (1976). The Supreme Court in its decision in State ex rel. McLeod v. Crowe, 272 S.C. 41, 249 S.E.2d 772 (1978) concluded that fees established for courts within the unified judicial system must be enacted on a uniform basis throughout the State. An opinion of this office dated August 20, 1986 determined that "(o)ne effect of bringing the probate court under the uniform judicial system was to establish uniform operation of the courts."

S.C. Code Ann. §§ 8-21-770 et seq. provide for the fees and costs payable to probate courts in this State. This office in an opinion dated March 14, 1989 concluded that a statute providing a fee schedule for the probate court of a particular county would violate Article V. Similarly, an opinion of this office dated August 6, 1986 similarly determined that legislation which would attempt to establish a fee schedule for marriage licenses issued in a particular county would violate Article V. Consistent with such, in my opinion, the establishment of a fee schedule for the probate court of a particular county by that county's governing body would violate Article V.

Request Letter

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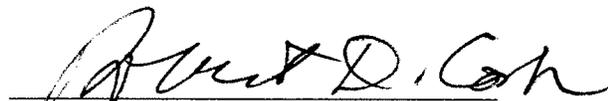
If there are any questions, please advise.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General