

## The State of South Carolina



## Office of the Attorney General

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April 14, 1986

Helen T. Zeigler, Legal Counsel  
Office of the Governor  
Post Office Box 11450  
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Dear Ms. Zeigler:

By your letter of April 10, 1986, you have asked for the opinion of this Office as to the constitutionality of H.3275, R-397, an act requiring, inter alia, that plats to be recorded in Clarendon County first be submitted to the county tax assessor for endorsement before delivering to the clerk of court for recording. For the reasons following, it is the opinion of this Office that the Act is of doubtful constitutionality.

In considering the constitutionality of an act of the General Assembly, it is presumed that the act is constitutional in all respects. Moreover, such an act will not be considered void unless its unconstitutionality is clear beyond any reasonable doubt. Thomas v. Macklen, 186 S.C. 290, 195 S.E. 539 (1937); Townsend v. Richland County, 190 S.C. 270, 2 S.E.2d 777 (1939). All doubts of constitutionality are generally resolved in favor of constitutionality. While this Office may comment upon potential constitutional problems, it is solely within the province of the courts of this State to declare an act unconstitutional.

The Act pertains solely to Clarendon County and thus is clearly an act for a specific county. Article VIII, Section 7 of the Constitution of the State of South Carolina provides that "[n]o laws for a specific county shall be enacted." Acts similar to H.3275, R-397 have been struck down by the South Carolina Supreme Court as violative of Article VIII, Section 7.

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See Cooper River Parks and Playground Commission v. City of North Charleston, 273 S.C. 639, 259 S.E.2d 107 (1979); Torgerson v. Craver, 267 S.C. 558, 230 S.E.2d 228 (1976); Knight v. Salisbury, 262 S.C. 565, 206 S.E.2d 875 (1974). See also Spartanburg Sanitary Sewer District v. City of Spartanburg, 283 S.C. 67, 321 S.E.2d 258 (1984) (construing Article VIII, Section 7 in the context of legislation for a special purpose district, directing that "the constitutional mandate of Article VIII, § 7 that the General Assembly can modify legislation regarding special purpose districts only through the enactment of general law" be followed).

Based on the foregoing, we would advise that H.3275, R-397 would be of doubtful constitutionality. Of course, this Office possesses no authority to declare an act of the General Assembly invalid; only a court would have such authority.

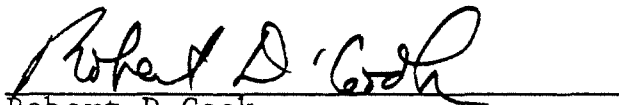
Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



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