

## The State of South Carolina



## Office of the Attorney General

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August 6, 1986

Larry W. Propes, Deputy Director  
South Carolina Court Administration  
Post Office Box 50447  
Columbia, South Carolina 29250

Dear Larry:

In a letter to this Office you referenced that Section 20-1-230 of the Code authorizes the probate court to collect one dollar for the issuance of a marriage license. You indicated that in a number of instances, local legislation has been enacted varying this fee in several counties. You have specifically questioned whether a county council can set the fee for a marriage license where there is no special legislation authorizing such action by the council. Additionally, you questioned whether in the absence of any such local legislation, is the fee limited to one dollar?

In a prior opinion of this Office dated September 9, 1977, a copy of which is enclosed, the question was raised as to whether a county council was authorized to raise the fees charged by the probate judge. The opinion determined that there is no provision in the "home rule" act, Act No. 283 of 1975, which authorizes a county council to modify general laws which specify fees. See also: Opinions dated February 7, 1980, July 25, 1983, and April 6, 1981. Also, this Office advised in a prior opinion dated March 6, 1984 that inasmuch as the probate courts are part of this State's unified judicial system and the Supreme Court has held that fees established for courts within the unified judicial system must be enacted on a uniform basis throughout the State, legislation which attempted to establish a fee schedule for marriage licenses issued in a particular county would violate Article V of the Constitution. The opinion further stated that such legislation could also be considered to be in violation of Article III, Section 34 of the State Constitution

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inasmuch as it would be a special law enacted where a general law could be made applicable.

Consistent with the above, as to your question concerning the marriage license fee being limited to one dollar if there is no local legislation authorizing a county council to set a certain fee, it appears that such fee would be limited to the one dollar fee authorized by Section 20-1-230. As noted, there are questions as to the constitutionality of any such local legislation even if such was passed.

If there is anything further, please advise.

Sincerely,

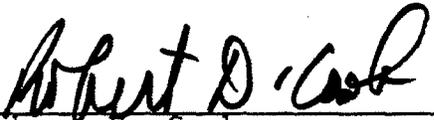


Charles H. Richardson  
Assistant Attorney General

CHR/an

Enclosure

REVIEWED AND APPROVED BY:

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Robert D. Cook  
Executive Assistant for Opinions