

1980 WL 121117 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 21, 1980

**\*1 RE: Opinion on § 8-21-770 Code of Laws of South Carolina, 1976, As Amended**

John P. Herry, Esquire  
Post Office Box 1533  
Conway, South Carolina 29526

Dear Mr. Henry:

You have asked whether the probate fees prescribed by Article 7 of Act 164 of the 1979 Acts should be charged on cases which were pending on the effective date of that Act and on which previous billings had not been made. Act 164 apparently took effect on July 1, 1979. See § 14-23-810, Code of Laws of South Carolina, 1976 (1979 cum supp); 79 Op. Att'y Gen. dated July 23, 1979.

Once Act 164 took effect it repealed by implication and replaced the old probate fee schedule. See, § 14-23-810 (1979 cum supp). Accordingly, all fees thereafter billed by the Probate Court for services within the scope of Act 164 would have to be pursuant to that Act, as the previous fee schedule was no longer in existence.

Furthermore, an Act relating to procedure, such as the fee act, is generally construed as applicable to pending cases absent a showing of contrary legislative intent. Ex parte De Hay, 3 S.C. 564, 565; Irwin v. Brooks, 19 S.C. 96; Seaboard Coastline v. Clarke, 122 Ga. App. 237, 176 S.E.2d 596; Turner v. U.S., 410 F.2d 837 (5th); 2 Sutherland, Statutory Construction, § 41.104 (4th Ed). Nowhere in Act 164 is the inference that pending cases are excluded from the Acts' application.

Thus, it is the opinion of this Office that Act 164 is applicable to cases pending on the effective date of the Act for probate services within its scope which are thereafter billed.

Very truly yours,

Edwin E. Evans  
Assistant Attorney General

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