

1979 WL 43060 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
June 11, 1979

***1 Re: Fees Payable to Fairfield County Clerk of Court**

Mr. Moultrie D. Douglas
Attorney at Law
P.O. Box 359
Winnsboro. S. C. 29180

Dear Sir:

In your letter of March 22, 1979, you indicated that it was your understanding that Circuit Court Rule Number 92 was passed for the purpose of providing compensation to the Circuit Court Clerks who are on a fee basis. My research has revealed that Circuit Court Rule Number 92 was not passed for such reason. The [Constitution of the State of South Carolina Article 5, Section 20](#), states that the compensation for Clerk of Court shall be set by the General Assembly. [Section 14-19-10 et seq. of the Code of Laws of South Carolina \(1976\)](#), sets out a list of fees which may be charged by Circuit Court Clerks. Circuit Court Rule 92 merely consolidated the fees charged under [§ 14-19-10 et seq.](#) into one lump sum filing fee.

In order to financially support the Unified Court System, the General Assembly passed [§ 14-21-490 of the Code of Laws of South Carolina](#) which requires three-fourths of all fees collected by the Circuit Court Clerks to be turned over to the county and one-fourth remitted to the State for use in deferring the cost of the Unified Court System. It must be noted in light of this statute, that most counties had, through enactments of local legislation passed by the General Assembly, placed their Clerks of Court on a salary basis to be paid out of county funds. Therefore, the turning over of the fees collected by the Clerk of Court to the county as provided for in [§ 14-21-490](#) created no real problem.

However, in Fairfield County, the Clerk of Court is still on a fee basis. Turning the fees collected over to the county as required by [§ 14-21-490](#) deprives the Clerk of Court of his compensation. The solution to this problem is to have the Clerk turn the fees over to the county as provided in [§ 14-21-490](#) and then have the Council pass a resolution returning to the Clerk those fees due him as compensation for his services.

I hope this information will be beneficial in resolving the problem at hand. If I can be of any further assistance, please fee free to contact me. Thank you.

Evans Taylor Barnette
State Attorney

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