

1978 WL 207604 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 23, 1978

*1 Honorable Ted B. Wyndham
City Recorder
Greenwood Savings & Loan Building
Greenwood, South Carolina 29646

Dear Mr. Wyndham:

Mr. McLeod has asked me to respond to your letter of May 10 regarding S.C. Code of Laws, 1976, Section 34-11-60 (Drawing and Uttering Fraudulent Checks). In the fact situation presented, there was no indication that "A", the drawer, was issuing the check "to obtain ... services," as the statute requires. The facts instead suggest "A" was making payment toward a pre-existing debt, which the legislature expressly excluded from the statute's reach: "This section shall not apply ... to any check given only in full or partial payment of a pre-existing debt ..." The check you described, in the opinion of this office, does not constitute a fraudulent check within the meaning of Section 34-11-60. (See State v. McCord, 258S.C. 163, 187 S.E. 2d 654 (1972), where the pre-existing debt aspect of the statute was one ground of the South Carolina Supreme Court's decision.)

If I may be of further assistance, do not hesitate to contact me.

Sincerely,

Joseph R. Barker
Assistant Attorney General

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