

1976 S.C. Op. Atty. Gen. 333 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4470, 1976 WL 23087

Office of the Attorney General

State of South Carolina

Opinion No. 4470

October 1, 1976

\*1 Mr. Russell B. Shetterly  
S. C. Association of Counties  
1227 Main Street  
Columbia, South Carolina 29201

Dear Mr. Shetterly:

You have requested an opinion from this Office as to whether or not the provisions of Act No. 283 of 1975, the ‘home rule’ legislation, are retroactive so as to supersede the terms of an agreement or contract entered into by a county prior to the effective date of the provisions of Act No. 283. In my opinion, they are not.

The general rule as to the retroactivity of statutes is as follows:

Retrospective or retroactive legislation is not favored. Hence, it is a well-settled and fundamental rule of statutory construction, variously stated, that all statutes are to be construed as having only a prospective operation, and not as operating retrospectively. . . . More specifically, statutes generally will be held to operate prospectively unless the purpose and intention of the legislature to give them a retrospective effect clearly appears, . . . 82 C.J.S. Statutes § 414 at 981.

See also: [Pulliam v. Doe](#), 246 S.C. 106, 142 S.E.2d 861; [Independence Ins. Co. v. Independence Life & Acc. Ins. Co.](#), 218 S.C. 22, 61 S.E.2d 399; [Johnson v. Baldwin](#), 214 S.C. 545, 53 S.E.2d 785; [McCoy v. State Highway Department of South Carolina](#), 169 S.C. 436, 169 S.E. 174; [Jefferson Standard Life Ins. Co. v. King](#), 165 S.C. 219, 163 S.E. 653.

As to the impairment of contractual rights by subsequent legislation, the authorities seem to agree:

A statute . . . is not to be construed to impair the validity of contracts entered into before its passage. It is only where the intent of the legislature to make an act retrospective is plainly expressed that courts will undertake to apply it to antecedent contracts and determine whether it impairs their validity. 82 C.J.S. Statutes § 417 at 995.

Nowhere in the provisions of Act No. 283 of 1975 can I find any language which either expressly or impliedly provides that the Act is to be applied retroactively. Consequently, my opinion is that, in general, a contract which was validly entered into by a county before the provisions of Act No. 283 of 1975 became effective in that county is not cancelled or otherwise altered by the implementation thereof.

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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