

1980 WL 121113 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 21, 1980

*1 Mr. Joseph J. Morris
Assistant Finance Director
Richland County
Post Office Box 4069
Columbia, South Carolina 29204

Dear Mr. Morris:

In a letter to this Office you asked whether the Execution Against Property form which you had enclosed in your letter has previously been approved by this Office for use by the magistrate's courts. Please be advised that I am unaware of this Office having in the past approved or disapproved such form, or as far as I know, any other civil forms. This Office is directed by [Section 17-13-160, Code of Laws of South Carolina, 1976](#), to prescribe the form for all arrest warrants and search warrants issued in this State but I am unaware of any such authority concerning civil forms. The South Carolina Court Administration office has previously recommended certain civil action forms but have not prescribed an Execution Against Property form for use by the magistrate's courts.

As to whether the particularly referenced execution form should be used by Richland County magistrates, the form appears to be a form to be used when the execution is directed to a county sheriff and attested by the clerk of the circuit court as to a judgment filed in a circuit clerk of court's office. Of course, a judgment rendered in a magistrate's court may be docketed with the clerk of the circuit court. See [Section 22-3-300, Code of Laws of South Carolina, 1976](#). Once docketed in the clerk's office, execution would be issued by the clerk. See [Section 22-3-320, Code of Laws of South Carolina, 1976](#).

Therefore, as to your question concerning whether the referenced form could be utilized by the magistrate's court, as stated, the form submitted to this Office appears to be inappropriate for purposes of a magistrate's court inasmuch as it would be used when execution is attested by a clerk of the circuit court as to a judgment docketed with the clerk's office.

If there are any questions please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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