

1980 WL 120695 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 4, 1980

***1 SUBJECT: Property Tax-Homestead Exemption-Jointly Owned Property**

To qualify for the homestead exemption, property must be owned in fee or for life by applicant. An exception exists, however, for property owned jointly by husband and wife.

Honorable Patricia T. Antley
Richland County Auditor

QUESTION:

Property is owned jointly by the applicant and his former spouse. The former spouse, by affidavit, disclaims any interest in the property. Does such satisfy the ownership requirements for the homestead exemption?

APPLICABLE LAW:

[§§ 12-37-250](#) and [27-7-10](#), 1976 Code of Laws.

DISCUSSION:

The homestead exemption is provided by [§ 12-37-250](#) and a condition therefor is that the person claiming the exemption: '* * * hold complete fee simple title or a life estate to the dwelling place.'

The section further provides that:

'The exemption shall include the dwelling place when jointly owned in complete fee simple or life estate by husband and wife * * *.'

Here the property is admittedly jointly owned by persons other than the husband and wife.

The next inquiry is whether the affidavit serves to convey the ownership of the former spouse to the applicant. [Section 27-7-10](#) prescribes the form to be used for the conveyance of real property. The affidavit does not conform thereto and is insufficient to convey the interest of the former spouse.

CONCLUSION:

To qualify for the homestead exemption, property must be owned in fee or for life by applicant. An exception exists, however, for property owned jointly by husband and wife.

Joe L. Allen, Jr.

Deputy Attorney General

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