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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

December 8, 2004

Robert L. McCurdy, Staff Attorney
South Carolina Court Administration
1015 Sumter Street, Suite 200
Columbia, South Carolina 29201

Dear Mr. McCurdy:

In a letter to this office you questioned the effect of Section 2(B) of Act No. 295 of 2004 which changed the scheduled New Year's Day state holiday observance from Friday, December 31, 2004 to Monday, January 3, 2005 on S.C. Code Ann. § 15-39-680 (Supp. 2003) as it relates to judicial sales. Section 15-39-680 provides in part that "(t)he regular day of judicial sales is the first Monday in each month except when the first Monday in any month is a legal holiday in which case the sale day is on the Tuesday next succeeding the holiday...."

As you noted in your letter, this office issued an opinion dated July 18, 1969 which concluded that consistent with Section 15-39-680, judicial sales should be held the Tuesday after a state observed legal holiday on Monday. A question had been raised due to the provisions of the statute presently codified as S.C. Code Ann. § 53-5-60 (1992) which states that "(n)otwithstanding the provisions of §§ 53-5-10 and 53-5-30...(which declare certain days as legal holidays)...each first Monday in any month shall be a legal day for judicial or sheriff's sales or the transaction of any legal business."

It is generally recognized that the General Assembly is presumed to have knowledge of the interpretation of a statute given by the Attorney General. Op. Atty. Gen. dated March 12, 1985. I would note that Section 15-39-680 was amended in 1987 and inasmuch as no attempt was made to clarify or change the construction rendered in the referenced opinion, the interpretation by this Office is presumed to be correct. Therefore, this office would similarly conclude consistent with the 1969 opinion that inasmuch as Monday, January 3, 2005 is a legal holiday, judicial sales should be held on the Tuesday succeeding the holiday.

Mr. McCurdy
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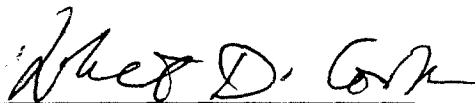
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General