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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

August 22, 2000

The Honorable Johnny Mack Brown
Sheriff, Greenville County
4 McGee Street
Greenville, South Carolina 29601

RE: Informal Opinion

Dear Sheriff Brown:

By your letter of June 2, 2000, you have requested an opinion of this Office on the attachment of county property to satisfy a judgment. Specifically you ask if South Carolina Code of Laws Section 4-17-30 exempts from attachment both personal and real property of the county.

S.C. Code § 4-17-30 states:

All county poor farms and poorhouses and hospitals, courthouses and jails and *all other public property of every kind or description actually used as such* are forever exempt from attachment, levy and sale on account of any judgment, lien or claim whatsoever against the county to which they or any of them belong. (Emphasis added)

There appears to be no South Carolina case law addressing whether this statute applies to real property only or to both real and personal property, such as vehicles and equipment. In the absence of direct authority, we are required to formulate our opinion on the basis of time honored rules of statutory construction.

A number of principles of statutory interpretation are relevant to your inquiry. First and foremost, is the long-recognized tenet that in interpreting a statute, the primary purpose is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). The statute's words must be given their plain and ordinary meaning without resort to subtle or forced construction either to limit or expand the statute's operation. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). Moreover, it will be presumed that the General Assembly did not intend to do a futile thing. Gaffney v. Mallory, 186 S.C. 337, 195 S.E. 840 (1938), and thus, where terms of a statute are positive and unambiguous, exceptions not made by the

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Legislature cannot be read in by implication. Vernon v. Harlevsville Mut. Cas. Co., 244 S.C. 152, 135 S.E.2d 841 (1964).

A review of § 4-17-30 reveals no specific exception for personal property to the grant of exemption for county property. The statute expressly states "all other public property of every kind or description." Use of the widely inclusive "all other" coupled with the further expanding "of every kind or description" suggests that the statute should be construed broadly. The intent of the statute appears to be to protect county property already available and used for the benefit of the public from judgment creditors. An allowance for creditors to take personal property such as vehicles and equipment is simply not permitted by the language of the statute. In light of the foregoing, this Office advises that the exemption in § 4-17-30 includes both personal and real property of the county.

This letter is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General not officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,

A handwritten signature in black ink, appearing to be "R. D. Cook", written over a horizontal line.

Robert D. Cook
Assistant Deputy Attorney General