

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

June 16, 1993

Mark R. Elam, Esquire
Senior Legal Counsel to the Governor
Office of the Governor
Post Office Box 11369
Columbia, South Carolina 29211

Dear Mr. Elam:

By your letter of June 10, 1993, you have asked for the opinion of this Office as to the constitutionality of H.4012, R-232, an act to provide that individuals residing in certain residential care facilities may qualify for a supplement under the Department of Social Services General Assistance program if they otherwise qualify or qualify except for income limitations or because of residing in a facility funded by a governmental entity.

In considering the constitutionality of an act of the General Assembly, it is presumed that the act is constitutional in all respects. Moreover, such an act will not be considered void unless its unconstitutionality is clear beyond any reasonable doubt. Thomas v. Macklen, 186 S.C. 290, 195 S.E. 539 (1937); Townsend v. Richland County, 190 S.C. 270, 2 S.E.2d 777 (1939). All doubts of constitutionality are generally resolved in favor of constitutionality. While this Office may comment upon potential constitutional problems, it is solely within the province of the courts of this State to declare an act unconstitutional.

In establishing a class of individuals who are eligible to receive the referenced supplements, potential equal protection violations must be considered. However, based upon our review, it appears that a court could reasonably conclude that there is no equal protection violation in this instance. Therefore, H.4012, R-232 is probably constitutional. Dandridge v. Williams, 397 U.S. 471 (1970).

Mr. Elam
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With kind regards, I am

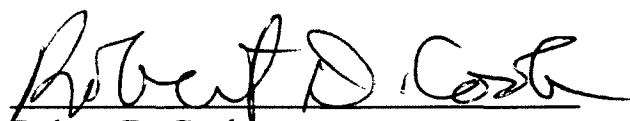
Very truly yours,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions