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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

January 25, 1993

The Honorable Robert A. Barber, Jr.
Member, House of Representatives
1868 Bowen's Island Road
Charleston, South Carolina 29412

Dear Representative Barber:

In a letter to this Office you questioned the interpretation of S.C. Code Ann. Section 12-36-2110(B) which states:

> ... a manufactured home that has not been previously occupied as a dwelling is exempt from any tax that may be due above three hundred dollars ... if it meets these energy efficiency standards: storm or double pane glass windows, insulated or storm doors, an actual installed insulation value of R-11 for walls and R-19 for floors and R-30 for ceilings.

By such provision a dealer is required to maintain records for three years on forms provided by the State Energy Office verifying whether or not a manufactured home meets the referenced energy efficiency standards. You indicated that the legislation was intended to encourage the purchase of energy efficient manufactured housing by providing a tax advantage for energy efficient homes as opposed to non-efficient homes. You questioned whether in determining tax benefit eligibility are calculations authorized which allow some deviation from R-30, R-11 and R-19 so long as the calculations yield the same level of energy efficiency as that which would be achieved from insulation levels of R-30, R-11 and R-19.

REQUEST LETTER

The primary obligation of both the courts and this Office in interpreting statutes is to determine and effectuate legislative intent where possible. McGlohon v. Harlan, 254 S.C. 207, 174 S.E.2d 753 (1970). Language in a statute must be construed in light of the intended purpose. Merchants Mutual Insurance Co. v. South Carolina Second Injury Fund, 277 S.C. 604, 291 S.E.2d 667 (1980). See also: Opins. of the Atty. Gen. dated December 9, 1991 and November 27, 1990. In your letter you stated:

> These "energy efficiency standards" were intended by myself and other authors of the bill to be considered as a group which would yield the desirable level of energy use efficiency. They were intended to be flexible enough to allow trade-offs, as long as the equivalent level of energy efficiency is achieved. They were intended to parallel the energy efficiency standards used by the state's electric utilities to rate homes. The utilities allow trade-offs to meet the required level of efficiency.

I was informed that the referenced legislation has been construed by the State Energy Office as allowing trade-offs so long as the equivalent level of energy efficiency is reached. It is recognized that construction of a statute by the agency charged with its administration is entitled to the most respectful consideration and should not be overruled without cogent reason. Emerson Electric Co. v. Wasson, Inc., 287 S.C. 394, 339 S.E.2d 118 (1986); Faile v. South Carolina Employment Security Commission, 267 S.C. 536, 230 S.E.2d 219 (1976). Such construction need not be the only reasonable interpretation nor the result a court may have reached in the first instance. Opin. of the Atty. Gen. dated January 24, 1991.

Based upon review of the legislative intent along with the interpretation by the State Energy Office, it appears that the energy efficiency standards set forth in Section 12-36-110(B)(4) may be considered as a group so as to allow trade-offs as long as the equivalent level of energy efficiency is achieved.

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