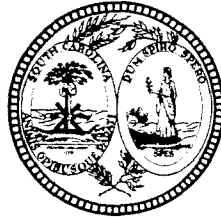


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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

June 2, 1997

The Honorable Douglas C. Murdaugh  
Clerk of Court  
P.O. Drawer 9000  
Orangeburg, SC 29116-9000

Dear Doug:

You have requested the advice of this Office as to whether, as Clerk, you are entitled to the salary for the office of Probate Judge while serving in that position as a result of a vacancy. You reference S.C. Code Ann. §14-23-60 (1976) which provides that, in the event of a vacancy, the Clerk shall "take charge of the office" of Probate Judge, discharge the duties thereof, and "receive the same fees" until the vacancy is filled. Two previous opinions have concluded that the Clerk is entitled to the Probate Judge's salary when fulfilling that Office's duties, but the Opinions have not relied upon that statute; however, their conclusions and reasoning would indicate that, as Clerk, you would be entitled to the Probate Judge's salary while executing the duties of that Office. Ops. Atty. Gen. (December 12, 1967 and July 8, 1981); Cf. Id. (May 23, 1983). Legislation regarding Probate Judges' salaries since those Opinions were issued does not appear to alter these conclusions. See §§ 8-21-760 and 8-21-765 (Supp. 1996).

This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

If you have further questions, please let me know.

Yours very truly,

J. Emory Smith, Jr.  
Assistant Deputy Attorney General

JESjr