



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

November 24, 1997

The Honorable Douglas Jennings, Jr.  
Member, House of Representatives  
P.O. Drawer 995  
Bennettsville, SC 29512

Dear Doug:

You have requested the advice of this Office as to whether a student is entitled to free tuition college tuition as the son of a disabled veteran who has moved to North Carolina. The Division of Veterans Affairs of the Governor's Office has interpreted the applicable statute, §59-111-20 (Supp. 1996), to require that the veteran parent be a current resident and has denied the request. I concur with the Veteran's Affairs Office based upon the language and legislative history of the provision which indicate no intent to limit the requirement that the disabled veteran parent must continue to reside in this State for their children to qualify.

The pertinent language of §59-111-20 (Supp. 1996) reads as follows as to children of living veterans:

A child of a wartime veteran upon application to and approval by the South Carolina Department of Veterans Affairs, may be admitted to any state-supported college, university, or post high school technical education institution free of tuition ..., if the veteran was a resident of this State at the time of entry into service and during service or has been a resident of this State for at least one year and still resides in this State ..." (emphasis added). See infra.

This provision and related legislative history indicate a legislative intent<sup>1</sup> that a living veteran must continue to reside

<sup>1</sup> The ... primary function in interpreting a statute is to ascertain the intention of the legislature.... Where the terms of a statute are clear and unambiguous, there is no room for interpretation and [a court] must apply them according to their

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in South Carolina for his children to be qualified for the free tuition. The statute was substantially revised in 1974 to read in pertinent part, as follows:

A child of a veteran, who was resident of this State at the time of entry into service and during service and, in the event the veteran is disabled, still resides in this State.... Act No. 952, 1974 S.C. Acts 2077.

An amendment in 1976 added language so that the provision read as follows:

A child of a veteran, who was resident of this State at the time of entry into service and during service or who has been a resident of this State for at least eighteen years and, in the event the veteran is disabled, still resides in this State.... Act No. 727, 1976 S.C. Acts 2177.

A 1978 amendment to other parts of the statute did not change this provision which read the same until it was amended in 1993 to read, as follows in pertinent part, as it does now. Act. No. 445, 1978 S.C. Acts 1377; Act. No. 151, 1993 S.C. Acts 481.

A child of a wartime veteran ....if the veteran was a resident of this State at the time of entry into service and during service or has been a resident of this State for at least one year and still resides in this State ..." (emphasis added).

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literal meaning. South Carolina Department of Highways and Public Transportation v. Dickinson, 281 S.C. 134, 341 S.E. 2d 134 (1986).

"If the intent of the legislature be clearly apparent from the language, the court may not embark upon a search for it de hors the statute. \*\*\*

"But where the language of the statute gives rise to uncertainty as to the legislative intent, the search for that intent may range; for it must be gathered from a reading of the statute as a whole in light of the circumstances and conditions existing at the time of its enactment." Timmons v. South Carolina Tricentennial Commission, 254 S.C. 378, 175 S.E. 2d 805, 817 (1975), quoting Abel v. Bell, 229 S.C. 1, 91 S.E. 2d 548.

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The language "still resides" has remained part of the requirements for the veterans throughout this process. While the 1993 bill was being considered, a Committee proposed substantial changes that would have taken out that language (1993 H.J. 2304), but the language was added back by amendment to the Committee proposal and passed to read as it does now. 1993 H.J. 2371; Act 151 (§59-11-20 (Supp. 1996), supra. Consistent with that action is the title to the 1993 Act, as passed, which contains no wording indicating an intent to change the current residency requirement for living veterans.<sup>2</sup>

This legislative history indicates no intent to limit the requirement that living veterans continue to reside in the State in order for their children to qualify for free tuition. To read the current residency requirement as applying only to the one year residents and not to those who were residents at entry and during service would be inconsistent with this history. In reaching this conclusion, I have given weight to the legislative intent to benefit the children of veterans, but the language and the history make clear that those veterans who are still living must continue to reside in this State for their children to benefit from the free tuition. Any change in that requirement would need to come from the General Assembly.

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. Emery Smith, Jr.  
Assistant Deputy Attorney General

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<sup>2</sup> "...[I]t is proper to consider the title or caption of an act in aid of construction to show the intent of the legislature...." University of South Carolina, 248 S.C. 218, 149 S.E. 2d 433 (1966).