

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

March 28, 1990

SUBJECT: Corporations - Reinstatement of Forfeited Charter.

SYLLABUS: The General Assembly cannot by special legislation authorize the reinstatement of a corporate charter that was forfeited under Section 33-14-200, et seq.

TO: Honorable Ryan C. Shealy
Senator, District No. 24

FROM: Joe L. Allen, Jr. *JLA*
Chief Deputy Attorney General

QUESTION: Can the General Assembly by special legislation reinstate the charter of a corporation that has been forfeited under Section 33-14-200, et seq., for more than two years?

APPLICABLE LAW: Section 33-14-220, South Carolina Code of Laws, 1976.

DISCUSSION:

Section 33-14-220 provides the procedure under which a charter revoked under Section 33-14-200 may be reinstated. The application must be made to the Secretary of State within two years after the effective date of dissolution.¹ If the application is not timely made, there can be no special legislation to restore that charter. (See OAG, April 15, 1955).

¹The two year period could be different for some corporations because of the savings clause set forth in Section 33-20-105. In example, the period was five years under Section 33-21-120 which was repealed in 1988. See OAG 89-125, November 7, 1989.

Honorable Ryan C. Shealy
Page Two

March 28, 1990

Special legislation to reinstate a revoked charter for a specific corporation is proscribed by Article IX, Section 2, of our Constitution. It there provides:

"The General Assembly shall provide by general law for the formation, organization, and regulation of corporations and shall prescribe their powers, rights, duties, and liabilities, including the powers, rights, duties, and liabilities of their officers and stockholders or members."

Section 33-14-220 is a general law. A general law was defined in McKiever v. City of Sumter, 137 S.C. 266, 135 S.E. 60, to be:

"A law is general in the constitutional sense which applies to and operates uniformly on all members of any class of persons, places, or things requiring legislation peculiar to itself in matters covered by the law."

An act that would authorize the reinstatement of a revoked corporate charter beyond the limitation of Section 33-14-220 must be by general law applicable to all similar corporations.

CONCLUSION:

The General Assembly cannot by special legislation authorize the reinstatement of a corporate charter that was forfeited under Section 33-14-220, et seq.

JLAJr:wcg