

The State of South Carolina



Office of the Attorney General

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February 26, 1991

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

Dear Mr. Elam:

By your letter of February 21, 1991, you have asked for the opinion of this Office as to the constitutionality of H.3190,R-7, an act which permits the Ducks Unlimited Foundation, the Low Country Open Land Trust, the Nation Ford Land Trust, a nonprofit conservation organization located in York County and the Beaufort County Open Land Trust, Incorporated, which are working with the State of South Carolina on the Heritage Trust to acquire and dispose of conservation restrictions and easements in the same manner and with the same privileges as governmental bodies and other conservation organizations. For the reasons following, it is the opinion of this Office that a court would probably determine that the act is not in violation of Article VIII, Section 7 or Article III, Section 34 of the State Constitution.

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); Thomas 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 in favor of constitutional problems, it is solely within the province of the courts of this State to declare an act unconstitutional.

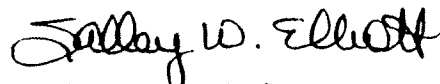
Article VIII, Section 7 of the Constitution of the State of South Carolina provides that "{n}o laws for a

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specific county shall be enacted." Article III, Section 34 of the Constitution of the State of South Carolina provides that the General Assembly shall not enact a local or special law where a general law can be made applicable. I cannot say beyond a reasonable doubt that either constitutional provision will be violated and any ambiguity is resolved herein in favor of constitutionality.

Of course, this Office possesses no authority to declare an act of the General Assembly valid; only a court would have such authority.

Sincerely,



Salley W. Elliott
Assistant Attorney General

klw

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions